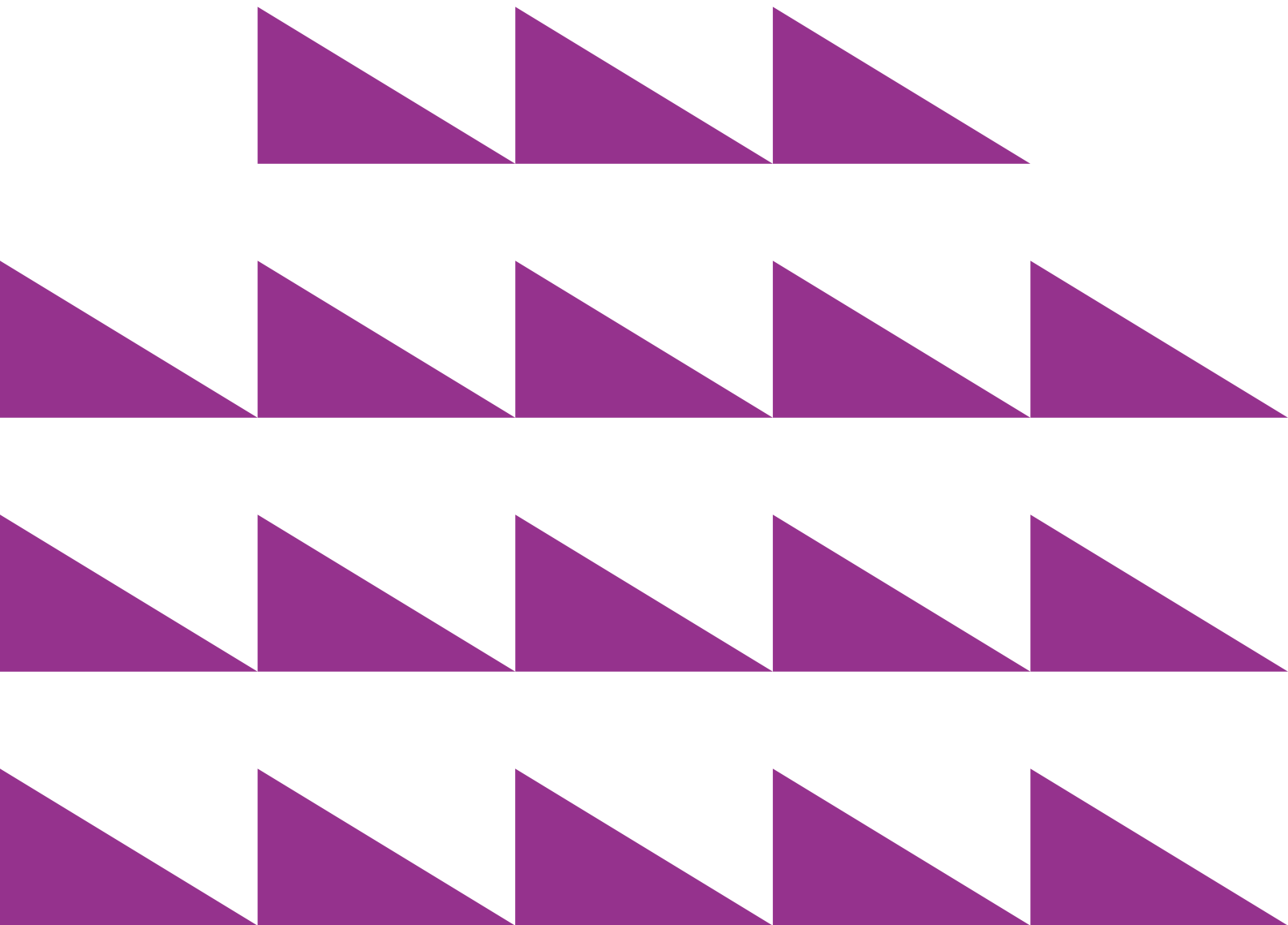


Operation Meroo

An investigation into alleged corrupt conduct by a former CEO
of a Victorian regional health service

April 2021



Authorised and published by the
Independent Broad-based Anti-corruption Commission,
Level 1, 459 Collins Street, Melbourne

April 2021

If you need this information in an accessible format,
please telephone 1300 735 135 or email
communications@ibac.vic.gov.au. This document
can also be found on our website www.ibac.vic.gov.au

***Ordered to be published by the Victorian Government
Printer [PP 222, Session 2018-21]***

ISBN 978-1-922349-10-1 (print)
ISBN 978-1-922349-09-5 (online)

© State of Victoria 2021
(Independent Broad-based Anti-corruption Commission)



You are free to re-use this work under a Creative Commons Attribution 4.0 licence, provided you credit the State of Victoria (Independent Broad-based Anti-corruption Commission) as author, indicate if changes were made and comply with the other licence terms. The licence does not apply to any branding, including Government logos.

Table of contents

Letter of transmittal	1
List of abbreviations	2
1 Summary of investigation and outcomes	4
2 Allegations against the former CEO	12
3 Adequacy of the systems and controls at Agency A	22
4 Conclusions and recommendations	38
5 Appendices	42
Appendix A: Natural justice requirements and responses	43
Appendix B: Departmental oversight of public health services and public hospitals	46
Appendix C: Previous IBAC special reports	50

Letter of transmittal

To

The Honourable President of the Legislative Council

and

The Honourable Speaker of the Legislative Assembly

In accordance with section 162(1) of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act) I present IBAC's report on its Operation Meroo, an investigation into alleged corrupt conduct by a former CEO of a Victorian regional health service.

IBAC's findings and recommendations are contained in the report.

A handwritten signature in black ink, appearing to read 'R Redlich', written in a cursive style.

Yours sincerely

The Honourable Robert Redlich AM, QC
Commissioner

List of abbreviations

Term	Explanation/expanded abbreviation
ATO	Australian Taxation Office
BMAC	Boards Ministerial Advisory Committee
CEO	Chief Executive Officer
DH	Department of Health
DHHS	Department of Health and Human Services
IBAC	Independent Broad-based Anti-corruption Commission
IBAC Act	<i>Independent Broad-based Anti-corruption Commission Act 2011</i>
PID	Public interest disclosure
VAGO	Victorian Auditor-General's Office
VPSC	Victorian Public Sector Commission

1 Summary of investigation and outcomes

1 Summary of investigation and outcomes

1.1 Introduction

In 2019/20, the Victorian Government allocated more than \$20 billion to health¹, most of which was provided to public hospitals and other health services to deliver healthcare to the Victorian community. Victorians rightly expect and need publicly funded health services to be run efficiently and for resources to always be used in the best interests of the community.

The misuse of any public funds can have significant detrimental impacts on the community that is reliant on the delivery of funded services. The public harm is particularly acute in healthcare, where any misuse of funds comes at the expense of delivering vital services that affect people's quality of life. Misuse of funds also reduces public confidence in public institutions, services and government.

Operation Meroo was an investigation by the Independent Broad-based Anti-corruption Commission (IBAC) into allegations that the former CEO of a Victorian regional health service (Agency A) misused their position and engaged in corrupt conduct, including that they subverted procurement processes and failed to declare and manage conflicts of interest.

IBAC found the former CEO awarded a contract worth nearly \$1 million to a consultancy, Company 1, while they were in a personal relationship with one of its directors. The former CEO also authorised payment of invoices to an electrical company owned by their relative (Company 2) several years after the work was purportedly undertaken and without proper verification. The former CEO failed to declare or manage clear conflicts of interest, as they were required to do.

IBAC also found the former CEO inappropriately expended the health service's funds on travel and hospitality and regularly failed to comply with Agency A's policies and procedures.

The former CEO was responsible for the day-to-day management of the health service for the public good in accordance with board decisions and government policies. Instead, IBAC found the former CEO acted in a way that was inconsistent with the *Code of Conduct for Victorian Public Sector Employees*. Public sector employees are expected to maintain strict separation between work-related and personal financial matters, and must only use public financial resources for work-related purposes. The former CEO failed to do this, which resulted in significant cost to the health service.

IBAC also found that Agency A's Board failed to govern effectively and did not adequately oversee the former CEO. IBAC also identified issues with the oversight of Agency A by the then Department of Health and Human Services (the Department).²

Operation Meroo highlights corruption risks that can arise when a public sector agency head is not subject to adequate oversight. These risks are particularly relevant to services which are geographically remote, as Agency A is.³

IBAC has made recommendations to Agency A and the Department of Health (DH) to address the vulnerabilities identified in Operation Meroo. These include strengthening procurement practices, conflict of interest policies, and board capability and oversight.

There are 81 public health services and public hospitals in Victoria.⁴ These services, and other agencies in the public sector, particularly in regional or rural areas and those governed by boards, should consider the corruption vulnerabilities highlighted in this report and recommendations made, and determine how they can mitigate these risks in their own agencies.

The former CEO resigned from Agency A.

¹ Department of Treasury and Finance 2019, *Delivering for all Victorians*, Victorian Budget 19/20 Service Delivery, Budget Paper No 3, p 193, <[s3-ap-southeast-2.amazonaws.com/budgetfiles201920.budget.vic.gov.au/2019-20+State+Budget+-+Service+Delivery.pdf](https://www.budget.vic.gov.au/2019-20+State+Budget+-+Service+Delivery.pdf)>.

² On 1 February 2021, as a result of machinery-of-government changes, the Department of Health and Human Services was separated into two new departments: the Department of Health and Department of Families, Fairness and Housing.

³ IBAC 2019, *Corruption risks associated with public sector boards* <www.ibac.vic.gov.au/docs/default-source/education-resources/corruption-risks-associated-with-public-sector-boards.pdf?sfvrsn=351fb59d_0>; and Victorian Auditor-General's Office, 2017, Board performance, May 2017, p 24, <www.audit.vic.gov.au/sites/default/files/20170511-Board-Performance.pdf>.

⁴ Department of Health and Human Services, *Public hospitals in Victoria*, Health Victoria website, accessed 6 April 2021, <www2.health.vic.gov.au/hospitals-and-health-services/public-hospitals-victoria>.

1.2 Background to the allegations

In June 2017, IBAC received a notification pursuant to section 57(1) of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act) from the Department. The notification concerned corrupt conduct allegations regarding the CEO of a regional health service (Agency A).

The notification was preceded by allegations made more than 10 years earlier to the Board and numerous other agencies and individuals by a former Agency A employee about the conduct of the then CEO. These allegations were similar to those subsequently investigated by IBAC. The then CEO successfully brought a civil claim against the former employee and was awarded significant damages. The former employee subsequently declared bankruptcy.

In 2015, a departmental Regional Director raised concerns with the then CEO and the Board President about a potential conflict of interest regarding the CEO's appointment as president of an organisation that accredits healthcare service providers including Agency A (Organisation Z). The Department told IBAC it decided not to pursue this matter after being advised by the then Board President that Agency A had received its own legal advice and was satisfied they were managing the conflict.

In 2017, an Agency A Director with responsibility for corporate services, including procurement and finance, spoke to the then Secretary of DHHS about their concerns regarding the then CEO's alleged attempts to circumvent proper recruitment processes. The Department, in consultation with Agency A's Board, arranged for an independent review of the organisational culture at the health service. The CEO was placed on leave by the Board at the Department's direction while the review was undertaken. The CEO did not return to work and later formally resigned from the health service.

The draft report of the independent review which had been commissioned on Agency A's organisational culture outlined several allegations against the former CEO. After receiving the report, the Department notified IBAC in June 2017 of the allegations of corrupt conduct in accordance with section 57(1) of the IBAC Act.

In July 2017, IBAC referred the allegations back to the Department to be investigated. The Department engaged an external provider to inquire into these matters. In November 2017, the Department provided IBAC with the investigation report for further consideration. The investigation provided further information about the contract Agency A had with Company 1 and included an additional allegation that the former CEO had used quotes from fictitious building companies to support applications for capital works grants. In 2018, IBAC determined to conduct an investigation in accordance with section 64(1)(a) of the IBAC Act.

1 Summary of investigation and outcomes

1.3 The allegations

Under the initial scope of Operation Meroo, IBAC investigated allegations that the former CEO:

- used their position to award a contract to Company 1 with which they had personal associations
- provided false information to the Department and the Commonwealth Department of Health to receive government funding for capital works projects.

The scope of Operation Meroo was subsequently broadened to also investigate allegations that the former CEO:

- failed to comply with the health service's procurement policies when sourcing goods and services, including awarding work to their relative's electrical company, Company 2
- used their position to circumvent proper recruitment procedures
- used Agency A purchasing cards for travel and hospitality expenses that were not within the guidelines of their employment
- received a financial benefit from two car dealerships, the suppliers of Agency A's fleet vehicles.

IBAC found that the former CEO:

- awarded a poorly defined contract to Company 1, valued at around \$960,000 between 2010 and 2017, without following competitive procurement procedures
- was in a personal relationship with one of Company 1's directors (Person G) and a subordinate (Person E) but did not declare a conflict of interest
- provided Person G benefits which were inconsistent with Agency A's policies
- authorised the payment of invoices to their relative's company (Company 2) between 2012 and 2015 totalling around \$74,000 for work purportedly undertaken in 2004, without verification
- did not comply with Agency A's policies in relation to recruitment and promotions
- expended Agency A funds inappropriately on travel, meals and alcohol.

IBAC also found the former CEO was involved in providing false information to the Department and the Commonwealth Department of Health to obtain government funding, but there was insufficient evidence to determine the impact of the false information provided on the applications. There was no evidence the former CEO received a direct personal benefit from these grants.

IBAC did not substantiate the allegation that the former CEO received any personal benefit when purchasing fleet cars for Agency A but found they failed to follow procurement processes when sourcing fleet vehicles.

Definition of corruption

Except where the context suggests otherwise, references in this report to corruption or corrupt conduct mean conduct of a public officer or body that is found to have knowingly or recklessly breached, or contributed to a breach of the public trust or that adversely affects the honest performance of their functions.

Such breaches are ordinarily through misuse of power or position or information for private gain, or advantage for oneself or others.

IBAC's findings are made on the civil standard, namely the balance of probabilities, based on the principles applied in *Briginshaw v Briginshaw* (1938) 60 CLR 336.

Section 162(6)(a) of the IBAC Act provides that IBAC may not include any finding or statement that a specified person is guilty or has committed any criminal offence.

1.4 The entities involved

1.4.1 The former CEO

The former CEO had a long career in the Victorian public health sector and had served as CEO of Agency A for many years. They also sat on a number of boards of associations and organisations related to health. The former CEO resigned from Agency A in 2017.

The functions of CEOs of public health services are outlined in the *Health Services Act 1988*.⁵ Under that Act, the CEO must ensure that the public health service uses its resources efficiently and effectively.

1.4.2 Person G and Person E

The former CEO had long-term personal relationships with two people connected with Agency A, Person G and Person E.

Person G was a consultant and a member of Agency A's Board for several years, joining in the mid- 1990s. During this time, they also performed contract work for Agency A. In around 2003, Person G's company, Company 1, entered into a contract with Agency A.

Person E was an Agency A employee. They held a senior role at the health service for a significant period during which time they reported directly to the CEO.

1.4.3 Agency A

Agency A operates a number of campuses in regional Victoria, providing acute care, residential aged care, disability services and community services.

Agency A is incorporated as a public hospital under the Health Services Act, although for the purposes of this report, it is referred to as a health service. Under the Health Services Act, Agency A is subject to a Statement of Priorities. The Statement of Priorities commits the Department to funding the health service, and the health service to meeting service obligations, performance requirements and government service priorities in return for that funding.

Under the Statement of Priorities, the health service is obliged to comply with the Department's policy and funding guidelines. These guidelines outline the expectations on agencies.⁶ These expectations include compliance with the public sector values and principles, including:

- acting with integrity by using powers responsibly, avoiding real or apparent conflicts of interest, and earning and sustaining public trust at the highest level
- acting with impartiality by making decisions on merit without bias, favouritism or self-interest
- being accountable by seeking to achieve best use of resources.

Agency A is governed by a Board. The CEO is responsible for the day-to-day management of the health service and is accountable to the Board.

⁵ Section 65XB of the *Health Services Act 1988*.

⁶ Department of Health and Human Services 2020, *Policy and funding guidelines 2020-21, Policy guide*, August 2020, <www.dhhs.vic.gov.au/sites/default/files/documents/202009/Policy%20guide%2C%20Policy%20and%20funding%20guidelines%202020-21.pdf>. The 2016/17 Policy and Funding Guidelines were in effect during the former CEO's tenure at Agency A and include the same expected compliance with the public sector value and principles.

1 Summary of investigation and outcomes

1.4.4 Agency A's Board

Agency A's Board is responsible for the clinical and corporate governance of the health service. The Board is responsible to the Minister for Health for the performance of Agency A.⁷

The functions of boards of public hospitals and public health services are prescribed in the Health Services Act and include developing plans, strategies and budgets to ensure the efficient and accountable provision of health services and the long-term financial viability of the service. Other functions include:

- monitoring and assessing the performance of the CEO each financial year
- ensuring the resources of the Victorian public health sector are used effectively and efficiently.⁸

Board directors are appointed by the Governor-in-Council on advice of the Minister, usually for a three-year term. Board members can be re-appointed. At the time of the former CEO's tenure, Agency A Board members were not remunerated.⁹

1.4.5 Department of Health and Human Services

At the time of the conduct investigated by IBAC, the then DHHS was responsible for funding and regulating public health services across Victoria. The Department:

- was responsible for monitoring the performance of health services
- could initiate audits, suspend funding or request an organisation immediately suspend or cease delivery of services if it had reasonable concerns about the performance or conduct of the organisation¹⁰
- evaluated and provided advice to health services on compliance with departmental policies and guidelines
- advised on health services' strategic directions and their alignment with government policy and key directions
- managed support for boards and the processes for nominating and appointing board members.¹¹

The Department Secretary also approved CEO appointments and re-appointments, based on board recommendations.¹²

Following machinery-of-government changes which took effect on 1 February 2021, these responsibilities now rest with the Department of Health.

⁷ Department of Health and Human Services, *About health service boards in Victoria*, Health Victoria website, accessed 29 July 2020, <www2.health.vic.gov.au/hospitals-and-health-services/boards-and-governance/about-health-boards>.

⁸ Section s65S of the *Health Services Act 1988*.

⁹ The Department of Premier and Cabinet has published guidelines, effective from 1 July 2019, regarding remuneration for public sector boards. Agency A is classified as a Group C organisation and board members are entitled to a fee per day as outlined in the *Guidelines on Appointment and Remuneration 2019*. Department of Premier and Cabinet 2019, *Appointment and remuneration guidelines*, July 2019, <www.vic.gov.au/guidelines-appointment-remuneration>.

¹⁰ Department of Health and Human Services 2019, *Service Agreement Requirement*, December 2019, <fac.dhhs.vic.gov.au/service-agreement-requirements-dhhs>.

¹¹ Department of Health 2012, *Victorian Health Services Governance Handbook*, January 2012, pp 12–14, <www.hfma.org.au/sites/default/files/uploaded-content/website-content/victorian_health_services_governance_handbook_feb_2013_-_pdf.pdf>.

¹² Department of Health and Human Services, 2018, *DHHS Directors' toolkit*, Chapter 10 –The CEO, March 2018, p 222, <www2.health.vic.gov.au/about/publications/policiesandguidelines/dhhs-directors-toolkit>.

The Department has undertaken a number of reforms to mitigate corruption and misconduct risks including those identified in Operation Meroo. In 2017, the Department responded to IBAC's Operation Liverpool, an investigation into the conduct of two senior officers at Bendigo Health, detailing how the Department would address vulnerabilities, such as subversion of procurement processes and insufficient oversight of individuals, across health services.¹³ In 2019, as part of its response to Operation Liverpool, the Department introduced an integrity governance framework and better practice assessment reporting tool to assist Victorian public health services to assess their integrity risks.¹⁴

The Department also published a toolkit for public health service board directors to help them better understand their roles and the operating environment within which they govern. This toolkit states that board directors can access the protections of IBAC in identifying and reporting corruption.¹⁵

Additionally, the Department has been implementing recommendations from the 2016 report, *Targeting Zero: Supporting the Victorian hospital system to eliminate avoidable harm and strengthen quality of care*, an independent review into quality and safety governance in Victorian public hospitals.¹⁶ One recommendation was the introduction of remuneration for board members to support professionalisation of health service boards.¹⁷ The Boards Ministerial Advisory Committee (BMAC) was created in response to the review. BMAC works with the Department to ensure health service board directors are highly skilled and effective.

1.5 The conduct of the investigation

A number of individuals and Agency A provided a substantial amount of documentation to IBAC, either voluntarily or by way of summons.

IBAC interviewed and examined a number of Agency A employees and Board members.

IBAC summonsed the former CEO and three witnesses to attend private examinations to assist the investigation. The private examinations were conducted in late 2018.

1.6 Interim actions

At the conclusion of IBAC's investigation and in response to issues identified, Agency A advised it had reviewed its contracts to ensure they contained sufficient detail including information about the services to be provided, performance measures, requirements for the consultant and/or contractor to adhere to Agency A policies where applicable, and an end date for the contract.

Agency A also commissioned an external financial review of entitlements claimed by the former CEO. The review found expenses totalling more than \$300,000, including travel, accommodation and meals, were private expenses or business expenses in excess of reasonable allowances or those set by the Australian Taxation Office (ATO). IBAC understands that this matter is yet to be finalised.

¹³ Department of Health and Human Services 2017, *Response to Operation Liverpool recommendation to the Department of Health and Human Services*, 19 September 2017, <www.ibac.vic.gov.au/docs/default-source/Responses/dhhs-response-to-operation-liverpool.pdf>.

¹⁴ Department of Health and Human Services, *Integrity governance framework and assessment tool*, Health Victoria website, accessed 29 July 2020, <www2.health.vic.gov.au/hospitals-and-health-services/funding-performance-accountability/integrity-governance-framework>.

¹⁵ Department of Health and Human Services 2018, *DHHS Directors' toolkit, Chapter 4 – Statutory duties*, March 2018, p 117, <www2.health.vic.gov.au/about/publications/policiesandguidelines/dhhs-directors-toolkit>.

¹⁶ Department of Health and Human Services 2016, *Targeting Zero: Supporting the Victorian hospital system to eliminate avoidable harm and strengthen quality of care*, October 2016, <www.dhhs.vic.gov.au/sites/default/files/documents/201610/Hospital%20Safety%20and%20Quality%20Assurance%20in%20Victoria.pdf>.

¹⁷ Premier of Victoria 2018, *Recognising our Hard-Working Hospital Board Members*, Media release, 14 June 2018, <www.premier.vic.gov.au/recognising-our-hard-working-hospital-board-members/>.

1 Summary of investigation and outcomes

1.7 Recommendations

Pursuant to section 159(1) of the IBAC Act, IBAC makes the recommendations outlined below:

Recommendation 1

That Agency A reviews its policies, systems and practices to address the corruption vulnerabilities identified in Operation Meroo, including by:

- a. strengthening controls applying to procurement, including by ensuring suppliers are sourced in a way that is compliant with competition requirements, that key elements of the procurement process are segregated and subject to appropriate oversight, and robust record-keeping practices are in place so that activities and decisions are auditable
- b. ensuring a strong conflict of interest framework is in place (including requiring declarations where consensual personal relationships exist between employees) and that employees and suppliers understand their obligations to identify, declare and manage conflicts of interest (and that conflicts of interest are avoided where possible)
- c. regularly communicating with employees and board members regarding their responsibility to report suspected corrupt conduct; how to make a report; and what support is available under the *Public Interest Disclosure Act 2012* when they do report.

Recommendation 2

The Department of Health to work with the Boards Ministerial Advisory Committee (BMAC) to:

- a. ensure BMAC considers public health service and public hospital board evaluations prior to the annual board member appointment process, and takes action to address issues and risks identified in those evaluations

- b. introduce a more formal process for conducting board director exit interviews and addressing issues as appropriate
- c. address the vulnerabilities of public health service and public hospital boards in regional and rural areas, including around recruiting suitable board members and maintaining required levels of capability
- d. review support provided to public health service and public hospital board members, including training and resources, to ensure board members:
 - undergo mandatory induction upon appointment
 - understand their governance obligations including under the *Health Services Act 1988*, the *Public Administration Act 2004* and the *Financial Management Act 1994*
 - understand how to identify and report suspected misconduct or corruption and the support available to board members under the *Public Interest Disclosures Act 2012* when they do report
 - understand their obligations under the *Code of Conduct for Directors of Victorian Public Entities*.

Recommendation 3

The Department of Health to:

- a. ensure its systems for monitoring the performance of public health services and public hospitals centrally record concerns or issues raised, to collate information on each health service and hospital's risks in a systematic way
- b. review and strengthen controls around the appointment and performance management of public health service and public hospital CEOs.

2 Allegations against the former CEO

2 Allegations against the former CEO

2.1 Failing to comply with procurement processes

2.1.1 Awarding a contract to Company 1

IBAC found the former CEO used their position to award a contract to Company 1 without undertaking a competitive procurement process.

IBAC established that between July 2010 and May 2017, Agency A paid Company 1 around \$960,000. During the same period, Agency A's procurement policy stated that procurement valued:

- between \$500 and \$2000 required two quotes, with one quote in writing
- between \$2000 and \$10,000 required three quotes, with two quotes in writing
- between \$10,000 and \$150,000 required three written quotes
- \$150,000 or more required an open tender process.

The work undertaken by Company 1 should have been subject to an open tender process. This did not occur.

Company 1 was registered in the mid-1990s, with Person G and their spouse named as co-directors. The spouse of Person G was a longstanding friend of the former CEO.

The former CEO and Person G began a personal relationship in the mid-1990s, which continued throughout the period that Agency A and Company 1 were in a contractual arrangement. The former CEO never declared or managed the conflict of interest arising out of this relationship. Sometime between 1995 and 1997, while they were in a relationship, Person G was invited by the CEO to contract with the health service to publish its annual report and establish a library. The position the former CEO offered to Person G was not advertised. The former CEO told IBAC this was because they considered that Person G had the talent and required skills.

Around 2003, the former CEO entered into a contract with Company 1. No competitive procurement process was undertaken.¹⁸ Poor record-keeping practices within the health service made it difficult to determine precisely when Agency A and Company 1 first entered into a contract. The contract held by Agency A is dated 2003. That contract had no end date and lacked specificity as to the nature of the services to be provided by Agency A, or how performance would be measured. Person G and the former CEO were unable to recall if there was a contract between Company 1 and Agency A for work undertaken prior to 2003.

The work undertaken by Company 1 included:

- booking flights, accommodation and event tickets for the former CEO and the former CEO's family for Agency A, personal, and Organisation Z travel
- purchasing gifts for Agency A employees and Board members
- selecting furniture and fittings for Agency A sites
- compiling the Agency A annual report and quality account (an annual publication detailing Agency A's quality of care and safety for the financial year)
- coordinating the health service's annual general meeting
- fundraising activities for Agency A.

¹⁸ IBAC was unable to identify Agency A's procurement policy at that time.

When examined by IBAC, the former CEO could not accurately estimate the annual cost of the services provided by Company 1, putting the cost at 'anything between \$40,000-\$80,000'. However, in 2016, the annual costs totalled approximately \$220,000. And between January and May 2017, costs incurred exceeded \$84,000.

Company 1's contract with Agency A was lucrative and of significant financial benefit to its two directors, Person G and their spouse. The contract was not subject to any competitive procurement process and the value of at least some services they provided was questionable. In summary, Company 1 received an unfair advantage because of its directors' relationships with the former CEO.

The contract between Agency A and Company 1 formally ceased around September 2017, resulting in significant savings to Agency A. All tasks previously performed by Company 1 have either been discontinued or are being performed by Agency A employees. This suggests the contract with Company 1 did not represent good value for money for Agency A.

2.1.2 Payment of Company 2

IBAC found the former CEO was involved in the decision to pay Company 2, an electrical business owned and operated by a relative of the former CEO, for work which was purportedly undertaken several years earlier.

The former CEO told IBAC that Company 2 had been contracted to provide building services to Agency A for approximately 30 years. IBAC could not determine exactly when the contractual arrangement began, nor could it locate the contract or purchase order under which the work was undertaken.

The former CEO denied direct involvement in the engagement of Company 2, stating any arrangement with them was left to the health service's engineering department. However, the former CEO did say 'if they needed my influence to help get [their relative] to come and do some work ... I may have got involved'.

IBAC was unable to confirm the total amount paid to Company 2 by Agency A, but it is estimated that Company 2 was paid approximately \$85,000 for works undertaken between 2004 and 2010. Competitive procurement processes were not consistently undertaken in relation to these services, contrary to Agency A's procurement policy, with quotes from another local supplier only sought sporadically. This gave Company 2 an unfair advantage over other suppliers. The former CEO defended not obtaining quotes every time, saying their relative was 'the one who was the most readily available'. The former CEO failed to identify and manage this clear conflict of interest.

Between 2012 and 2015, Agency A paid invoices from Company 2 totalling more than \$74,000 for works purportedly undertaken at a number of Agency A sites in 2004. The former CEO confirmed they were involved in deciding that Agency A should pay these invoices which were received between eight and 11 years after the work had supposedly been performed. The former CEO said 'I made sure that [their relative] submitted their invoices in the proper manner, that they ... were checked, verified and signed off for payment'. However, this was not supported by the evidence.

2 Allegations against the former CEO

One invoice was for \$25,000 received in 2012 for work purportedly undertaken in 2004. The former CEO directed the invoice be paid without verifying whether Agency A was liable to pay, or even if the work had been completed. The former CEO contended their actions were reasonable, despite the clear conflict of interest presented by the relationship with their relative, on the basis that the regional location made it difficult to do things '100 per cent by the book'.

An Agency A Director with responsibility for corporate services, including procurement and finance, gave evidence that the former CEO tried to have the \$25,000 invoice paid the day the Director commenced annual leave. The Director was immediately alerted to this by a member of the finance department. The Director told IBAC they raised concerns about the invoice with the former CEO but did not pursue these concerns because they felt threatened by the former CEO. The Director said they did not raise their concerns about the payment to Company 2 with the Board, because their role 'would have become untenable fairly quickly'. Agency A paid the invoice.

Public sector agencies should have systems to track purchase orders and the status of invoices, including a follow-up process for outstanding invoices. Failure to do so exposes agencies to the risk of fraud and/or misrepresentation, such as an agency being invoiced twice for the same work. The timely submission and payment of invoices ensures goods or services are delivered to the standard or specifications agreed upon between the supplier and the purchaser.

2.1.3 Procurement of fleet vehicles

IBAC investigated an allegation that the former CEO received a personal benefit from a car dealership when procuring Agency A's fleet vehicles. IBAC did not substantiate this allegation. However, IBAC found the former CEO did not comply with Agency A's procurement policies, as they did not obtain the required number of quotes before entering into an agreement.

2.2 Provision of deceptive information for government funding

IBAC found that between 2010 and 2013, Agency A provided deceptive information in relation to at least 10 infrastructure funding applications submitted to the Department and the Commonwealth Department of Health. IBAC was unable to determine the total amount of funding applied for or obtained due to a lack of comprehensive records.

The funding applications included quotes from Building Company X and Building Company Y, both fictitious building companies. Building Company Y was never registered on the Australian Business Register and most quotes from Building Company Y stated 'ABN pending'. The Director told IBAC they registered Building Company X for an ABN in 2011 at the request of the former CEO.

The former CEO denied that Company X's ABN was created on their instruction but could not explain why the application included their personal details and listed them as the director. They also stated the quotations from the fictitious companies could have been taken as being deceptive but they were not intentionally so. When asked by IBAC about the purpose of the quotes, the former CEO said 'to get Commonwealth funding for services [for] which [Agency A] would have otherwise not been eligible'. The former CEO could not recall why Agency A did not obtain quotes from genuine companies.

IBAC was unable to obtain complete records from the Department or the Commonwealth Department of Health to clarify the purpose and impact of the Building Company X and Building Company Y quotes. It is unclear whether the quotes were a mandatory component of the applications, whether the applications in question were successful, and if so, whether the quotes were used to calculate how much funding to allocate to Agency A.

The *Code of Conduct for Victorian Public Sector Employees* states that public sector employees are to act honestly in the performance of their duties. The former CEO's involvement in the submission of applications for government funding containing quotes from fictitious companies was clearly misleading and was a failure to act with integrity and uphold the code of conduct.

2.3 Failure to comply with recruitment procedures

IBAC found the former CEO failed to adhere to Agency A's policies when recruiting and promoting staff, including failing to avoid or otherwise identify, declare and manage clear conflicts of interest arising from personal relationships with individuals.

The former CEO confirmed they were aware of their responsibilities under the *Public Administration Act 2004* to establish merit-based employment processes. They explained that Agency A had a recruitment policy which required positions to be advertised and candidates to be interviewed by panels. However, the former CEO stated the application of this policy was 'not necessarily perfect' and confirmed there were multiple instances where the recruitment policy was not adhered to.

The former CEO also promoted staff to positions which were not advertised. The former CEO told IBAC that their obligation under the Public Administration Act to make merit-based employment decisions was a 'position to be considered' but that on occasion they took the prerogative to promote people they considered worthy. When exercising this prerogative, the former CEO did not keep any formal records to note that they had formally exempted the position from policy requirements.

Examples of how the former CEO circumvented recruitment processes include:

- The former CEO's executive assistant was promoted to a managerial role without a competitive recruitment process being undertaken.
- The former CEO directed that a position be created at Agency A to employ an allied health professional whose parents the former CEO knew socially.

The former CEO also paid bonuses and approved paid study leave to Person E, an employee with whom they were in a long-term personal relationship. Their relationship began after Person E began working at Agency A. In the early 2000s, Person E was appointed to a senior role and reported directly to the former CEO.

Between 2008 and 2016, the former CEO paid Person E bonuses totalling \$92,000. The former CEO also approved Person E's request to be provided paid leave to study in Melbourne. The former CEO did not declare a conflict of interest regarding their relationship with Person E when they approved Person E's payment of bonuses or paid study leave. When asked if the Board was aware of their relationship with Person E when the Board approved the paid study leave, the former CEO responded 'no one ever challenged it' before confirming they did not inform the Board of the relationship.

While Person E may have been entitled to the bonuses and paid study leave on the basis of their performance and the terms of their employment contract, it was nonetheless inappropriate for the former CEO to have awarded them to Person E whilst they were in a relationship, without declaring a conflict of interest.

2 Allegations against the former CEO

2.4 Inappropriate use of purchasing cards and expense claims

2.4.1 Travel expenses

As head of a regional health service, the former CEO was required to travel in the performance of their role. However, IBAC identified a pattern of excessive travel by the former CEO. In both 2015 and 2016, the former CEO was absent from Agency A for approximately one-third of each year, travelling intrastate, interstate and overseas. Between 2011 and 2016, the former CEO's annual travel expenditure averaged around \$100,000. By way of comparison, the current CEO of Agency A gave evidence that since assuming the role in 2017, travel and accommodation expenditure for *all* staff at Agency A was between \$20,000 and \$30,000 a year.

IBAC also identified that the former CEO frequently failed to comply with Agency A's policy in relation to expenditure on travel and related costs such as accommodation and meals. Agency A's *Discretionary Spending on Travel, Accommodation, Representation, Hospitality, Entertainment & Ex Gratia Payments Policy*, which applied at the relevant time, stated reimbursement of travel expenditure must not exceed daily rates set by the ATO and purchasing cards must not be used to pay for personal expenses. Additionally, the Victorian Public Service travel policy states travel should only be undertaken if it is of benefit to the employee's organisation, otherwise alternatives such as teleconferencing must be pursued.¹⁹

As outlined on the following pages, some travel undertaken by the former CEO using Agency A funds was for private purposes, was contrary to Agency A policy, exceeded applicable limits or was not directly related to the work of the health service. The Board President and the Finance Committee had responsibility for overseeing the CEO's travel expenses, but appropriate reviews of these expenses did not occur.

An independent financial review commissioned by Agency A in 2019 found the former CEO claimed \$313,000 in travel, accommodation and meal expenses which were in fact private expenses or business expenses in excess of reasonable allowances or those set by the ATO.

TRAVEL UNDERTAKEN FOR NON-BUSINESS PURPOSES

Evidence was obtained that the former CEO travelled for non-business purposes paid for by Agency A, contrary to the health service's travel policy, which prohibits private expenditure, and the *Code of Conduct for Victorian Public Sector Employees* which requires public officers to only use public financial resources for work-related purposes. For example:

- While on sick leave in 2012, the former CEO used their Agency A purchasing card to buy return business class flights from Adelaide to Melbourne. While in Melbourne, the former CEO also charged a \$167 meal (including a \$20 tip, contrary to policy) to Agency A. The former CEO told IBAC they were unable to recall the purpose of the travel.
- Using their purchasing card, the former CEO charged Agency A around \$2600 for a hotel stay in Melbourne to attend the 2015 AFL Grand Final. They agreed this was a personal trip. This is contrary to Agency A's Travel and Accommodation policy, which prohibits charging personal expenses to purchasing cards.

¹⁹ Department of Treasury and Finance 2017, *Victorian Public Service Travel Policy, Section 1.4 Alternative to travel*, November 2017, p 2, <www.buyingfor.vic.gov.au/sites/default/files/2018-10/VPS-Travel-Policy%20%281%29.pdf>.

TRAVEL EXPENDITURE CONTRARY TO POLICY

On other occasions, travel was undertaken ostensibly for work purposes but IBAC has concluded that the primary purpose of the travel was personal. This expenditure was contrary to Agency A policy. For example:

- In February 2016, the former CEO travelled to Melbourne and charged an eight-night hotel stay to Agency A for around \$2500. The former CEO was absent from the hotel for at least three nights, due to travel during the week to Adelaide, Nhill and Ballarat. The former CEO could not explain why they needed to travel to Melbourne. The former CEO accepted they had paid for a room they did not fully occupy, using their purchasing card, contrary to Agency A policy.
- Between 25 February and 5 March 2016, the former CEO stayed at a Melbourne hotel, charging Agency A nearly \$2600. They were predominately there on Organisation Z business. However, the former CEO also attended football-related meetings as they were involved in their local community's football league. When asked how this was an effective use of Agency A's resources, the former CEO said the community was complimentary of their involvement in such activities.
- In November 2015, the former CEO travelled to Adelaide and stayed at a hotel for two nights at a cost of \$374 per night. The former CEO said they needed to visit Adelaide to assist with the design of the health service's annual report, to help Person G buy gifts for the annual general meeting and to attend a medical appointment. Under Agency A policy and ATO guidelines, the former CEO's reimbursement rate was approximately \$200 per night.

INTERNATIONAL TRAVEL EXCEEDING AGREED LIMITS

In 2009, the former CEO indicated an interest in visiting a hospital in Bangkok, Thailand. The International Medical Director at the hospital was a family member of the then president of Agency A's Board. The stated purpose of the travel was to tour the hospital's medical and accommodation facilities, and to review its approach to patient care management.

Despite the International Medical Director's advice that they could host a one-day visit of the hospital, the former CEO, then Board President and then Vice-President booked a seven-night stay in Bangkok in December 2011. The Board approved travel for all three at a cost of \$8000.

Following the Board's approval, there was a change in Board office-holders: a new President and a new Vice-President were appointed. However, the former President and Vice-President travelled to Bangkok. The former CEO claimed this was because the former Vice-President had been approved to attend, although the Board minutes approving the travel did not refer to the Vice-President by name. The former CEO confirmed they were good friends with the former Vice-President but rejected the suggestion that this was not a work trip.

The actual cost of the trip was approximately \$20,000, significantly exceeding the amount approved by the Board. Expenses included business-class flights, five-star hotel accommodation, a sight-seeing tour, a game of golf and a \$656 lobster dinner.

The former CEO spent three days touring the hospital. Two of these days were spent inspecting the hospital's furnishings and décor. The former CEO said it was necessary to travel to Thailand to look at hospital décor 'to obtain a different view of the world'. They said that Agency A was undertaking building works at the time and it was an opportunity to learn from other hospitals. The former CEO agreed under examination that the cost of the trip was 'extremely hard to justify'.

The Vice-President who did not attend the trip told IBAC that while there was some Board-level discussion about learnings from the visit to Thailand, they could not recall a formal report being delivered to the Board. When asked why the Board did not identify the discrepancy between the approved amount of \$8000 and the actual cost of \$20,000, the Vice-President said, 'There may have been some bullying involved. I don't know. It might have been swept under the table. I can honestly say I don't know.'

2 Allegations against the former CEO

TRAVEL FOR NON-AGENCY A RELATED BUSINESS

Between 2010 and 2017, Agency A spent more than \$167,000 on travel by the former CEO for Organisation Z business. These expenses included flights, accommodation, meals and taxis.

When travelling for Organisation Z business, the former CEO flew business class although it was Organisation Z's policy to only pay for economy-class fares. The former CEO agreed it was their practice to charge Agency A the difference between economy and business-class fares. The former CEO told IBAC they considered it reasonable for Agency A to meet these costs because the Board had endorsed their role with Organisation Z.

Agency A's policy on accommodation and travel was unclear regarding the CEO's entitlement to travel business class. During their examination, the former CEO said they believed the policy allowed them to travel business class and therefore they were entitled to charge the extra cost of business-class fares to Agency A. The policy was clarified in 2017 after the former CEO resigned from Agency A; the updated policy prohibits business-class travel by the CEO without prior approval from the Board President.

The former CEO had an obligation to ensure the effective and efficient use of Agency A's resources. It is not clear that charging Agency A to upgrade to business-class fares for Organisation Z business met this obligation. While other Organisation Z office-holders attended meetings via teleconference, the former CEO only did so on limited occasions. The former CEO stated they could not have attended 'efficiently or effectively' via teleconference.

After the former CEO ceased employment with Agency A in 2017, Agency A's Board wrote to Organisation Z seeking reimbursement of almost \$12,000 believed to relate to Organisation Z travel undertaken after the former CEO had been placed on leave from the health service. Organisation Z reimbursed Agency A, and then requested reimbursement from the former CEO for the portion of the costs which did not fall within its guidelines. Organisation Z decided not to pursue this matter after the former CEO declined to pay, and after their involvement in Organisation Z concluded.

2.4.2 Meals and alcohol

The former CEO spent significant amounts on meals and alcohol which they charged to Agency A via their purchasing card. It was not always clear that this expenditure was undertaken for business-related purposes.

There were multiple instances where the former CEO dined with others at a high-end Melbourne restaurant between 2010 and 2015, charging the expense to Agency A. The former CEO said most of these dinners were for the purpose of entertainment associated with their role as CEO.

One of these meals cost \$772 and included oysters, lobster, brandy, a \$90 bottle of wine and a \$30 tip.²⁰ The former CEO could not recall how many people attended the dinner and admitted they had not met their obligation to document who had attended. Failure to provide this detail was contrary to Agency A's purchasing card policy which states, 'Each transaction on a purchasing card statement must be supported by appropriate documentation to inform the approval process'. This includes the purpose of the expenditure and the participants.

The day before departing on the trip to Thailand, the former CEO dined with an unnamed person at the Melbourne Sofitel. The meal cost \$311 and was charged to Agency A. The former CEO agreed the expenditure was not permitted under Agency A policy as it exceeded their daily dinner allowance of \$67 (per person). However, during their examination, the former CEO said the dinner was 'in the best interest of [Agency A] as approved by the Board'.

IBAC Examiner: How was having a meal at the Sofitel for an amount in excess of the policy and the guidelines benefitting [Agency A]?

Former CEO: It could have been seen as contributing to the welfare of those of us that went.

Under examination, the former CEO accepted the dinner was not in Agency A's best interests.

²⁰ When paying for meals on their purchasing card, the former CEO frequently paid a tip as well, which was not permitted under Agency A's Discretionary Spending on Travel, Accommodation, Representation, Hospitality, Entertainment & Ex Gratia Payments Policy. In 2016, they tipped a total of \$600 using Agency A funds.

As stated in 2.4.1, while on sick leave in 2012, the former CEO travelled from Adelaide to Melbourne at Agency A's expense. While in Melbourne they charged a dinner expense of \$167 to Agency A. The former CEO did not provide an explanation for the dinner in the material they provided to support the credit card invoice. They told IBAC they were unable to recall the purpose of the travel and the meal.

Agency A's purchasing card policy requires the Board President to review and approve entertainment expenses incurred by the CEO. In addition, Agency A's hospitality and entertainment policy states that entertainment expenditure is to be reviewed by the agency's internal auditor who is required to submit a written report to the Audit and Governance Committee at least quarterly, for ex poste approval of the expenditure. However, the former CEO told IBAC that they reviewed their own purchasing card statements until 2016, after which they were provided to the Board President for authorisation. No real scrutiny occurred. This is discussed further in section 3.

In their examination, the former CEO accepted that the meals did not comply with Agency A's policies.

2.4.3 Benefits provided by the former CEO to Person G

The former CEO told IBAC they were in a personal relationship with Person G²¹, a contractor and co-director of Company 1. The former CEO did not declare a conflict of interest and provided Person G with benefits which were inconsistent with Agency A policies, including the following:

- The former CEO told IBAC they allowed Person G the use of their purchasing card. Between 2010 and 2016, Person G charged around \$23,000 to the former CEO's purchasing card. Most of the expenses were airfares and accommodation, purportedly for business purposes. The former CEO confirmed they did not review the costs incurred by Person G. They did not extend the use of their purchasing card to any other contractor.
- Person G took business-class flights when performing work for Agency A, contrary to Agency A's policy. Agency A policy states directors can travel business class if flying time exceeds two hours. Person G was not a director (or an employee) but the former CEO said they deputised Person G to act on their behalf. In one instance, Person G claimed business-class flights were required because they were delivering a report to the Department and there were no economy seats available. They told IBAC it could not be delivered by courier. There is no specific requirement for public sector agency annual reports to be delivered in person. The former CEO defended these business-class flights stating they were 'more reliable' than economy, despite both classes of travel being on the same aircraft.

²¹ The former CEO and Person G gave different answers regarding the length of their relationship when examined by IBAC.

3 Adequacy of the systems and controls at Agency A

3 Adequacy of the systems and controls at Agency A

Operation Meroo highlighted a number of vulnerabilities in the systems and controls within Agency A, and in relation to oversight arrangements with the health service's Board and the Department. These are outlined on the following pages.

3.1 Vulnerabilities in procurement processes

Agency A's procurement policies and procedures were circumvented by the former CEO, and vulnerabilities in Agency A's systems and controls were exploited.

- **Failure to comply with policies.** As outlined in section 2.1, the former CEO awarded a contract to Person G's company, Company 1, without engaging in a competitive process. The former CEO was also inappropriately involved in the decision to engage Company 2, which was owned by their relative. In relation to these services, competitive procurement processes were not consistently undertaken. These actions were contrary to Agency A's procurement policy.

It can sometimes be challenging for agencies in small communities to find appropriate suppliers with whom they do not have conflicts of interest. However, this does not negate an agency's responsibility to undertake competitive procurement processes, and declare and actively manage conflicts of interest. Conflicts of interest are discussed in section 3.2.

Person G also circumvented the agency's controls around procurement. Although they were not an employee of the health service and therefore not permitted to use its purchasing system, they were provided access. When the Director attempted to deny Person G access to the system, Person G emailed the former CEO to '[sort] out this issue'. When presented with this evidence, the former CEO denied they had provided Person G access to the purchasing system, but agreed that, besides the Director, they were the only other person who could have granted Person G access. The Director said a 'sense of fruitlessness' meant they did not pursue the matter further.

When Person G purchased services on behalf of Agency A, they did not comply with procurement policies. For example, they engaged a company to produce Agency A's annual report without obtaining quotes or testing the market. Between 2010 and 2016, Agency A paid this company more than \$850,000. In 2011, the Director raised concerns with Person G regarding their failure to obtain quotes but their method of procurement did not change.

- **Lack of segregation of duties.** The former CEO had end-to-end control over the procurement of Company 1's services. The former CEO initiated the procurement and approved Company 1's invoices, with the Director co-signing. Although the co-signing arrangement was intended as a form of oversight, the Director said, 'I felt that I was put in a position where I had no option but to sign'. The Director was in the difficult position of reporting directly to the CEO and oversighting expenditure.

The former CEO also approved increases to Person G's hourly rate, which reached \$75 in 2016. According to the former CEO, these were verbal contractual variations; Person G gave evidence that the variations were made via letter. IBAC was unable to locate any documented approval process for the rate adjustment.

Agency A's procurement policy did not explicitly require the segregation of duties in the procurement process.

- **Poor controls around invoices.** The majority of Company 1's invoices contained generic, often identical, descriptions of work undertaken with only the amount owed varying each month. The Director described the invoicing arrangements for Company 1 as 'fairly loose'. Some Company 1 invoices indicate they were prepared relatively soon after the work was undertaken, but were not received by Accounts Payable until a significant period had passed. For example, two invoices totalling around \$30,000 for work undertaken by Company 1 in September and October 2013 are dated December 2013, but were not stamped as received by Accounts Payable until October 2014.

The former CEO said they relied on 'instinct' to determine the accuracy of the invoices. The former CEO also told IBAC there was a separate file containing a detailed breakdown of Company 1's work but it was 'very private' because some Agency A staff had concerns that Company 1's services were not necessary. Person G also told IBAC that detailed invoices containing a summary were submitted to Agency A. IBAC was unable to confirm the existence of the file.

The former CEO was also involved in approving invoices from their relative's electrical company, Company 2. They approved payment of an invoice for \$25,000 received in 2012 from Company 2 for work purportedly done in 2004 without ensuring the work had been completed.

- **Deficiencies with the procurement policy.** Agency A had a procurement policy but it was not comprehensive. It did not outline obligations to declare conflicts of interest, segregate duties or document decision-making. The policy referred to an independent review of 'legally binding purchase documents' but did not refer to any other auditing processes.

Policies that clearly outline the principles, processes and procedures applicable to the purchases of goods and services are the foundation of probity in procurement. To be effective, public officers must understand the policies and how they are to be implemented, and be motivated to comply. To this end, staff involved in procurement must be regularly trained to ensure they understand policies and procedures, and the importance of compliance.

- **Lack of oversight.** IBAC found no evidence of any scrutiny by internal and external auditors in relation to the procurement at Agency A. Auditing is a proactive way an agency's processes and practices can be reviewed to identify risks, including corruption risks, and procedural weaknesses. A 2020 report by the Joint Standing Committee on the Corruption and Crime Commission in Western Australia identified that internal audits were one of the most effective methods of identifying inappropriate procurement.²²

Scrutiny of Company 1's services may have been compromised by the appointment of Person G's spouse, and co-director of Company 1, as an independent member of Agency A's Audit and Governance Committee from 2010 to 2016, and chair of that same committee for three of those years. This committee was responsible for oversight of internal controls, including financial reporting processes, and compliance with laws and regulations. This issue is discussed further in section 3.4.

²² Joint Standing Committee on the Western Australia Corruption and Crime Commission 2020, *Report 14 Red Flags...Red Faces, Corruption risk in public procurement in Western Australia*, May 2020, p 70, <[www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/E0FDD014E31B257D482585680005ADE7/\\$file/20200512%20-%20Report%20for%20printer%20-%20FINAL%20-%20FOR%20WEBSITE%20PDF.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/E0FDD014E31B257D482585680005ADE7/$file/20200512%20-%20Report%20for%20printer%20-%20FINAL%20-%20FOR%20WEBSITE%20PDF.pdf)>.

3 Adequacy of the systems and controls at Agency A

- **Poor record keeping.** Operation Meroo highlighted a number of poor record-keeping practices at Agency A. Person G was contracted by Agency A sometime between 1995 and 1997, but the earliest contract identified by IBAC was dated 2003, when Company 1 entered into a contract with Agency A. The 2003 contract did not detail the exact nature of the services Company 1 would provide.

Poor record keeping undermines accountable and efficient procurement. The Victorian Government Purchasing Board (VGPB) states that probity in procurement is demonstrated in part by:

*maintaining an audit trail, thorough record keeping and documentation throughout the procurement process with enough information for independent review and verification*²³

Procurement is an area of significant corruption risk because it involves the distribution of monies and discretionary decision-making, including about what goods and services need to be purchased, the method of procurement, and the selection of suppliers. A number of other IBAC investigations have highlighted a range of corruption risks and vulnerabilities associated with procurement in the public sector.

Transparency, accountability and oversight are key principles in preventing procurement-related corruption.²⁴ These principles were not consistently applied at Agency A. A combination of poor policy, disregard for policy where it did exist, and lack of effective oversight exposed Agency A to the risk of corrupt conduct.

Since IBAC's investigation, Agency A has put in place stronger controls around procurement, including the creation of a contracts and compliance officer and the establishment of a procurement committee (comprised of senior officers and the contracts and compliance officer) to oversight the health service's procurement. Probity training has also been provided to employees undertaking procurements.

3.2 Insufficient controls around conflicts of interest

This report highlights how the former CEO failed to avoid and appropriately identify, declare and manage their conflicts of interest. The former CEO engaged individuals with whom they had personal connections, including personal relationships, without fully disclosing those connections.

Most notably, the former CEO awarded a lucrative contract to Company 1 while in a personal relationship with the company's co-director, Person G. The former CEO maintained a personal relationship with Person G for the duration of the contract, a period of approximately 20 years and during this time, took no steps to declare or manage this conflict of interest although they were responsible for authorising payments to Company 1.

Counsel Assisting: [Agency A] had no means of knowing whether in fact [Person G] was entitled to the amounts that [they] had invoiced.

Former CEO: [Agency A] would have only had my opinion and value and judgment.

Counsel Assisting: And you maintain that that judgment wasn't clouded by the fact that you were in a relationship with [Person G] at the time?

Former CEO: Yes.

Further, the former CEO did not declare a conflict of interest regarding their relationship with Person E when approving Person E's payment of bonuses or paid study leave.

²³ Victorian Government Purchasing Board 2019, *Probity in procurement – goods and services procurement guide*, Buying for Victoria website, accessed 29 July 2020, <www.buyingfor.vic.gov.au/probity-procurement-goods-and-services-procurement-guide>.

²⁴ Joint Standing Committee on the Western Australia Corruption and Crime Commission 2020, *Report 14 Red Flags...Red Faces, Corruption risk in public procurement in Western Australia*, May 2020, p xvi, <[www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/E0FDD014E31B257D482585680005ADE7/\\$file/20200512%20-%20Report%20for%20printer%20-%20FINAL%20-%20FOR%20WEBSITE%20PDF.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/E0FDD014E31B257D482585680005ADE7/$file/20200512%20-%20Report%20for%20printer%20-%20FINAL%20-%20FOR%20WEBSITE%20PDF.pdf)>.

Another conflict of interest concerned Person G's spouse and co-director of Company 1, who was the independent member of Agency A's Audit and Governance Committee between 2010 and 2016, and chair of the same committee for three years. Person G's spouse was also a longstanding friend of the former CEO. The former CEO told IBAC they suggested to the Board that Person G's spouse was eligible for the independent member position but denied formally nominating them. The former CEO agreed they never declared a conflict of interest arising from their friendship with Person G's spouse.

Person G's spouse clearly failed to meet the definition of an independent member, as per the Standing Directions of the Minister for Finance²⁵ and the health service's Audit and Governance Committee Charter, as they had a contractual relationship with Agency A. In February 2016, the Director raised this concern in an email to the former CEO. However, in October 2016, Person G was involved in drafting a letter to be signed by the former CEO inviting their spouse to continue as chair of the committee. When questioned by IBAC, the former CEO denied having seen the letter.

Agency A's Director told IBAC that in a 2016 meeting, Person G's spouse asked whether they had a conflict of interest arising from their ownership of Company 1 but the former CEO dismissed their concern. Person G's spouse told IBAC that the matter was never raised with them.

Effectively managing conflicts of interest is particularly difficult in small communities where conflicts are likely to be more common. For example, in rural and regional areas, close relationships between public officers and the community may heighten the chances of a conflict of interest. There may also be a limited talent pool for specific positions. However, proper identification, declaration, and management of conflicts is essential to mitigate risks arising from a conflict.²⁶

A further conflict of interest concerned the former CEO holding senior positions in Organisation Z which accredits healthcare service providers, including Agency A. In 2011, the former CEO recommended to the Agency A Board that Organisation Z continue to be engaged as Agency A's quality and safety accreditor. At the time, the former CEO was the vice-president and treasurer of Organisation Z. The former CEO was elected president of Organisation Z in 2015. At no point did Agency A test the market in relation to equivalent service providers.

While there is no evidence the former CEO improperly influenced the accreditation of Agency A, their senior positions with both Agency A and Organisation Z gave rise to at least the perception that Organisation Z may not have independently accredited Agency A.

In 2015, a departmental Regional Director raised concerns with the former CEO and the former Board President about a potential conflict of interest arising from the former CEO's appointment as president of Organisation Z. The former Board President advised the Department that Agency A had obtained legal advice and was satisfied they were managing the conflict in accordance with their code of conduct. The Department decided not to pursue this matter as they considered the Agency A Board had been alerted to the potential conflict.

Conflicts of interest which are not properly identified, declared or managed are a significant corruption risk. Such conflicts of interest can undermine the community's trust in public sector decisions and actions, increase the cost to the community for goods and services, and expose organisations to reputational damage, as identified in other IBAC reports.²⁷

²⁵ Guidance supporting the Standing Directions 2018 under the *Financial Management Act 1994*.

²⁶ IBAC 2019, *Managing corruption risks associated with conflicts of interest in the Victorian public sector*, October 2019, <www.ibac.vic.gov.au/docs/default-source/research-documents/managing-corruption-risks-associated-with-conflicts-of-interest-in-the-victorian-public-sector.pdf?sfvrsn=fdda4f90_2>.

²⁷ *ibid*.

3 Adequacy of the systems and controls at Agency A

Agency A did not have a stand-alone conflicts of interest policy or procedure that provided guidance to employees on how to identify, declare and manage conflicts of interest. Nor was any guidance provided in procurement and recruitment procedures, activities which are at higher risk of conflicts of interest. Instead, conflict of interest was dealt with in a limited way in Agency A's code of conduct: the code states all staff shall act in the public interest and not in a manner designed to gain unfair advantage for themselves or other individuals, particularly in respect to obtaining contracts or purchasing of goods or services. The former CEO failed to uphold this obligation.

Agency A has advised it now has a stand-alone conflict of interest policy. All employees with decision-making responsibilities are required to declare private interests annually. All vacant positions are subject to a competitive recruitment process, and all recruitment panel members must confirm whether they may have a conflict of interest in relation to candidates.

It is important that public sector agencies develop and communicate a clear policy that defines conflicts of interest, and provides clear guidance on how employees should declare and manage them. Good practice includes maintaining a central conflicts of interest register, which is monitored by a designated officer and/or audit and risk management committee, and requiring contractors to identify, declare and manage conflicts of interest.²⁸

The Victorian Public Sector Commission (VPSC) has developed a model conflict of interest policy and declaration form templates. The model policy includes processes for the management of consensual personal relationships in the workplace and is accompanied by a guide to support implementation.²⁹ This is a valuable resource for public sector agencies.

3.3 Culture at Agency A

The former CEO was the CEO of Agency A for a long period of time and a prominent member of the local community. IBAC obtained evidence that the former CEO's reputation and attitude towards some employees was intimidating and contributed to a culture where staff were reluctant to speak up. Some of those who did speak up about the former CEO's conduct suffered adverse consequences, including having a civil case brought against them.

3.3.1 Failure to encourage a speak-up culture

The former CEO told IBAC that if employees wanted to make a complaint they could do so through their director or the CEO. The former CEO said that if staff wanted to make a complaint about the CEO, they would 'find a way to go to the Board' and this was communicated to staff via a 'general policy'. But in fact, the former CEO created an environment which served to discourage complaints. And even when the Board did receive a complaint about the CEO, it failed to act.

In 2017, the former CEO directed the Director to search Agency A's phone records for calls to the Department after they suspected an employee had complained about them. The Director carried out this request. The former CEO told IBAC that it was 'unethical' for someone to make a complaint about them and that they should have had the opportunity to 'assess the value of the complaint'.

Information gathered during IBAC's investigation indicated that some of the issues highlighted in this report could have been addressed a decade earlier if complaints and issues raised in the early 2000s had been dealt with appropriately.

²⁸ IBAC 2019, *Local Government Integrity Framework*, March 2019, p 42, <www.ibac.vic.gov.au/docs/default-source/reviews/local-government-integrity-frameworks-review.pdf?sfvrsn=ed162313_6>.

²⁹ Victorian Public Sector Commission 2018, *Conflict of interest guidance for organisations*, October 2018, <vpsc.vic.gov.au/resources/conflict-of-interest-guidance-for-organisations/>.

In 2005, a former Agency A employee wrote to all Board members, the then Agency A complaints officer and others making several allegations about the former CEO similar to those investigated by IBAC. The former employee wrote again to the then Board President asking that their complaint be investigated but received no response. The former Board President could not recall the complaint or the Board's response. The Director told IBAC that they believed the Board accepted the CEO's way of handling the complaint.

The former CEO successfully brought a civil case against the former employee. The former CEO was awarded significant damages and the former employee subsequently declared bankruptcy.

Senior Agency A employees interviewed by IBAC cited fear of reprisal as a key reason why they were afraid to make complaints or pursue action against the former CEO.

The Director was aware of the former CEO's inappropriate expenditure. They also knew the former CEO's relative was the owner of Company 2 and that the former CEO had directed the payment of a \$25,000 invoice to Company 2 which was several years old, without verification. Further, the Director suspected the former CEO was in personal relationships with Person G and Person E. The Director told IBAC they did not raise these issues with the Board because they had little confidence the Board would address them. They said some Board members were close to the former CEO and that the former CEO's conduct had gone unchecked for a number of years, despite the Board being aware of the former employee's complaint.

When asked why they did not contact the Department or IBAC, the Director said they were fearful of losing their job. They were wary about making a complaint because of how the former CEO had responded to complaints – namely the civil case and the direction from the former CEO to search phone records for a potential complainant.

The Department states all boards should have clear policies and procedures for complaints, including complaints against the CEO.³⁰

Given the former CEO had brought a civil case against a former employee who had complained about them, it is understandable there was trepidation about addressing their behaviour. However, agencies must ensure employees and board members understand what constitutes possible corrupt conduct, how they can report such conduct (including reporting directly to IBAC) and the protections available under the *Public Interest Disclosures Act 2012*. A public interest disclosure (PID) is a report about improper conduct by public bodies or officers and it is an offence to take detrimental action in reprisal for someone making a PID. Operation Meroo highlights the importance of these protections.

³⁰ Department of Health and Human Services 2017, *Directors' toolkit, Chapter 4 Statutory duties*, December 2017, p 120, <www2.health.vic.gov.au/hospitals-and-health-services/boards-and-governance/education-resources-for-boards/directors-toolkit>.

3 Adequacy of the systems and controls at Agency A

3.3.2 Role of leadership

Leaders play a critical role in cultivating ethical culture within an organisation. The former CEO had a responsibility to set the organisational culture at Agency A by modelling the health service's values, which include strong leadership and management, and the values of the Victorian public sector which include integrity, impartiality and accountability. Pursuant to the *Code of Conduct for Victorian Public Sector Employees*, public officers should demonstrate leadership by actively implementing, promoting and supporting these values.

CEOs and other senior officers who do not act in a way that is consistent with their organisation's values and the values of the public sector undermine integrity and send a message to employees that there are rules which can be disregarded. This can have serious ramifications for organisations and individuals. The former CEO did not uphold Agency A's values nor the *Code of Conduct for Victorian Public Sector Employees*.

The former CEO came to regard their position as one which allowed them to do as they wished. In 2013, the former CEO asked an employee to access information on the former employee against whom they had brought the civil case. The former CEO was seeking information to assist them in enforcing the court's judgment. When asked by IBAC how this was a reasonable use of Agency A's resources, the former CEO responded, 'I was the Chief Executive Officer and I felt that in that position ... [I] would have the right to seek that information irrespective of what it's for or who it's for'.

Public sector leaders have a responsibility to clearly communicate and model the standards expected of staff and the processes for reporting suspected misconduct or corruption. Senior management can put controls in place, such as training and complaint processes, to help prevent employee misconduct and corruption. However, the effectiveness of these controls will be undermined when the most senior person in an organisation is engaging in inappropriate conduct. This challenge is exacerbated when the senior officer has held their position for a long period of time, as was the case with the former CEO.

It is now departmental policy that public health service boards must test the market if a CEO has held their role for more than 10 years. The incumbent CEO can be reappointed if, after market-testing, the board considers them to be the best candidate.³¹ The Department has also developed a CEO Leadership Capability Framework which aims to support the Department and health service board presidents to articulate the expected skills and behaviours of CEOs, and to support leadership development, recruitment and retention across Victoria's health system.³²

Since the departure of the former CEO in 2017, the culture at Agency A has reportedly improved, assisted by a new CEO and the employment of a people and culture manager. In 2018, Agency A introduced a register to record concerns and complaints of inappropriate workplace behaviour. The register assists the Agency to monitor the culture of different work areas, and to inform reports to the Board.

All staff are also required to attend people and culture training days, which cover the expectations of Agency A employees in relation to their conduct, including obligations arising from being part of the Victorian public sector. The training encourages employees to report conduct of concern, and highlights the processes for reporting. In May 2020, as part of an employee engagement survey, nearly two-thirds of Agency A employees said they believed they would be heard if they spoke up about a workplace matter most or all of the time.

³¹ Department of Health and Human Services 2017, *DHHS Directors' toolkit, Chapter 10 – CEO*, December 2017, p 222, <www2.health.vic.gov.au/about/publications/policiesandguidelines/dhhs-directors-toolkit>.

³² Department of Health and Human Services, *The CEO Leadership Capability Framework*, Health Victoria website, accessed on 2 September 2020, <www2.health.vic.gov.au/hospitals-and-health-services/boards-and-governance/sector-leadership>.

3.4 Inadequate governance at Agency A

Agency A is subject to oversight by its Board (which is responsible for the health service's clinical and corporate governance) and by the Department as the funding body. IBAC's investigation found that inadequate oversight helped facilitate the former CEO's conduct, including inappropriate use of health service funds.

3.4.1 Failure of the Board to properly oversight the CEO

In 2013, the Victorian Ombudsman reviewed public sector board governance arrangements. The Ombudsman's report highlighted that issues in the relationship between an agency's CEO and its board can be a significant risk to an agency's operation. One risk was described as follows:³³

Controlling behaviour by a CEO can destroy the effectiveness of a board very quickly ... Some witnesses [interviewed pursuant to the review] discussed the impact lengthy CEO appointments can have on the board/CEO relationship, noting that they could cause a 'knowledge imbalance' and can lead a board to become too dependent on its CEO. One witness noted that CEOs can 'have a lot of technical power that, if not imparted correctly can actually be used to bamboozle the board into just agreeing'.³⁴

These issues were evident in Agency A. There was a power imbalance between the former CEO and the Board, which resulted in the Board failing to properly scrutinise the former CEO's conduct. One Board member told IBAC:

[the former CEO] was always in control ... [they are] known in the town as a little dictator ... this was [their] little empire and nobody questioned [them], nobody queried [them], [they] could do what [they] liked.

The former CEO also acknowledged they were long-term friends with several Board members and had encouraged some to join the Board. The Department has recognised CEO involvement in board recruitment processes can be a 'red flag' that impacts on organisational performance.³⁵

The expenditure of the former CEO was not adequately oversighted. Agency A's purchasing card policy requires purchasing card statements, supported by appropriate documentation, to be authorised by the position or entity to whom the cardholder reports. In the case of the former CEO, this was the Board. For many years the former CEO did not provide their purchasing card statements to the Board or relevant sub-committees. Instead, they reviewed their own statements.

In 2016, the then Board President began to authorise the former CEO's purchasing card statements. However, they told IBAC that they did not usually review the statements and receipts before approving the expenditure. They had limited understanding of why they were approving the statements, considering it a formal requirement only. They agreed they were not fully aware of their responsibilities, despite serving on the Board for approximately 20 years.

At least two Board members, including the then President, were aware of the former CEO's excessive expenditure on meals and alcohol because they witnessed it firsthand. One of the Board members recalled being 'horrified' and when they raised it with the President, being told 'that's [the former CEO] and that's how [they] operate'. The former Board President told IBAC they did not take any steps to address the issue or contact the Department.

³³ Victorian Ombudsman 2013, *A review of the governance of public sector boards in Victoria*, December 2013, p 40, <www.parliament.vic.gov.au/file_uploads/A_review_of_the_governance_of_public_sector_wjkvq98C.PDF>.

³⁴ Ibid, pp 42-43.

³⁵ Department of Health and Human Services 2017, *Directors' toolkit, Chapter 5 – Board restructure and renewal*, December 2017, p 133, <www2.health.vic.gov.au/hospitals-and-health-services/boards-and-governance/education-resources-for-boards/directors-toolkit>.

3 Adequacy of the systems and controls at Agency A

The former Board President acknowledged they had responsibility for oversighting the CEO but did not fully exercise their authority. They said this was because they considered the former CEO to be a bully and they were intimidated by them.

The former President could not recall any discussion by the Board about the former CEO's purchasing card use and whether it was an efficient and effective use of Agency A's resources.

The Director told IBAC the Audit and Governance Committee, a sub-committee of the Board, had an oversight role in ensuring charges incurred by the former CEO related to Agency A business. It was the Director's understanding that the committee did not raise any concerns about the former CEO's expenditure until towards the end of the CEO's tenure, when questions were raised about costs associated with their role with Organisation Z. The former Board President also did not recall the Audit and Governance Committee requesting further information on expenditure from the former CEO during their tenure on the committee. As noted earlier in this report, the chair and independent member of this committee between 2010 and 2016 was a longstanding friend of the former CEO and co-owner of Company 1 which had a contractual relationship with Agency A.

The Board's failure to properly scrutinise the former CEO's expenditure was a failure of governance. It was also a failure to uphold the *Code of Conduct for Directors of Victorian Public Entities* which requires board members to act in the best interests of the agency, to ask questions about financial material presented to boards, and to report improper conduct.

Agency A has advised that all travel, accommodation and related expenses incurred by employees that exceed \$1000 a month are now reviewed by the Audit and Governance Committee and concerns are escalated to the Board. Additionally, a quarterly audit is conducted by the agency's internal auditors of employees' travel, accommodation and other expenses, and is reported to the Audit and Governance Committee.

3.4.2 Board capability

Health service boards operate in complex environments and are responsible to the Minister for Health for the clinical and operational performance of their health service. They have important governance and accountability obligations under the Health Services Act, the Public Administration Act and the *Financial Management Act 1994*. One of their obligations is to minimise the risk of corruption and fraud.³⁶

Board members also have responsibilities under the *Code of Conduct for Directors of Victorian Public Entities*.³⁷ Under the Code, board members are required to act in the best interests of the public entity and to exercise care in relation to public funds and assets.

Board members must have the skills and capability to effectively discharge these responsibilities.

Agency A's Board was comprised of people who wanted to make a positive contribution to their community. Despite good intentions and long tenures in some cases³⁸, they did not fully understand their obligations and lacked the skills and capability to effectively oversight the former CEO and hold them to account.³⁹

³⁶ Standing Directions for the *Financial Management Act 1994*.

³⁷ Victorian Public Sector Commissioner, *Code of Conduct for Directors of Victorian Public Entities*, <vpsc.vic.gov.au/resources/code-of-conduct-for-directors/>.

³⁸ Some Agency A Board members were repeatedly reappointed, which may have reflected the difficulty in recruiting appropriately skilled people to regional boards. However, IBAC understands the Department has since introduced a nine-year limit to the tenure of health service board members.

³⁹ In 2016, following an expansion of the health service, a delegate appointed by the Minister for Health joined Agency A's Board to support and oversee the Board's performance. While the delegate was initially appointed for a 12 month period, they remain on Agency A's Board. Senior Agency A officers told IBAC the delegate has brought a higher level of capability to the Board.

In 2016, the former Board President wrote to the Director asking, 'Does the Board have any oversight or authority on CEO/Executive expenditure? And does the [President] sign off and is the Board aware [of] this?' This was concerning, as they had been a Board member for over 20 years, had served as president since 2014, and this responsibility was clearly outlined in Agency A policy.

The Public Administration Act requires boards to assess the performance of the board as a whole, and individual directors.⁴⁰ Aside from one review conducted in 2009, it is not clear how frequently Agency A undertook such reviews during the former CEO's tenure. The former Board President told IBAC that aside from one instance when a 'delegate' interviewed Board members, they could not recall reviews being conducted. Had reviews been regularly conducted, capability issues may have been identified.

Agencies operating in regional locations, such as Agency A, can face challenges in attracting and retaining board members with the required skills. In 2017, the Victorian Auditor-General's Office (VAGO) found that regional boards experienced greater challenges in sourcing skilled board members than metropolitan boards.⁴¹ In addition, IBAC has identified that smaller boards whose members have little experience and oversight from portfolio departments can be vulnerable to adopting inappropriate practices which can facilitate or mask corruption.⁴²

Remuneration is one factor that may help to attract suitable candidates for board positions. During the former CEO's tenure, Agency A Board members were unpaid volunteers from the local community. Volunteer board members may view themselves as performing a community service because they are unpaid, rather than being a member of the public sector with all the requisite duties and responsibilities.

A 2016 independent review of quality and safety governance in Victorian public hospitals recognised that boards need to be highly skilled and independent to underpin better governance across the health sector.⁴³ One action has been to broaden the application of remuneration for board members.⁴⁴ Agency A Board members are now remunerated.

Training and education is also essential to ensure board members understand their obligations and the importance of upholding those obligations. Training for the Agency A Board was inconsistent and infrequent. Some members attended formal training but their knowledge was not always shared with other Board members. And there was no evidence that Board members were trained in how to identify and report possible corrupt conduct. The former Board President stated training could have assisted them in knowing how to escalate concerns about the former CEO's conduct.

IBAC understands the training provided to members of the Agency A Board has since improved, with the objective of building capability. According to Agency A, new Board members receive a comprehensive induction manual and training to familiarise themselves with Agency A and the health sector more broadly. Members are required to participate in training including seminars and conferences. Agency A uses an external online tool to monitor Board performance and the Board undertakes annual self-assessments.

⁴⁰ Section 81 of the *Public Administration Act 2004*.

⁴¹ Victorian Auditor-General's Office 2017, *Board performance*, May 2017, p 24, <www.audit.vic.gov.au/sites/default/files/20170511-Board-Performance.pdf>.

⁴² IBAC 2019, *Corruption risks associated with public sector boards*, September 2019, <www.ibac.vic.gov.au/docs/default-source/education-resources/corruption-risks-associated-with-public-sector-boards.pdf?sfvrsn=351fb59d_0>.

⁴³ Department of Health and Human Services 2016, *Targeting Zero: Supporting the Victorian hospital system to eliminate avoidable harm and strengthen quality of care*, October 2016, <www.dhhs.vic.gov.au/sites/default/files/documents/201610/Hospital%20Safety%20and%20Quality%20Assurance%20in%20Victoria.pdf>.

⁴⁴ The Victorian Government has taken recent steps to professionalise boards. Premier of Victoria 2018, *Recognising our Hard-Working Hospital Board Members*, Media release, 14 June 2018, <www.premier.vic.gov.au/recognising-our-hard-working-hospital-board-members/>.

3 Adequacy of the systems and controls at Agency A

However, information provided by Board members during Operation Meroo gave rise to concerns about current levels of understanding of their roles. For example, in their IBAC examination the former Board President, who is a current Board member, did not appear familiar with or to have a clear understanding of Agency A's specific obligations under the Financial Management Act, the Board's role in approving Agency A's budget, and the policy regarding CEO travel although the policy is reviewed and approved by the Board.

It is important that training is regular and ongoing, and ensures Board members' understand and fulfil their statutory obligations, including their obligations around financial management and reporting suspected corrupt conduct.

3.4.3 Department oversight

At the time of IBAC's investigation, the then DHHS was responsible for funding and regulating public health services in Victoria⁴⁵, including Agency A. Following machinery-of-government changes which took effect on 1 February 2021, this responsibility now rests with DH.

The relationship between the Department and each health service is governed by agreements, including Statements of Priorities and service agreements. Service agreements outline the funding provided to agencies, and the associated service delivery obligations. Under those agreements, the Department can initiate audits, suspend or cease some or all of an organisation's services if the Department has reasonable concerns, including that the organisation has failed to meet targets, breached policies or misused funding.⁴⁶

The Statement of Priorities commits the health service to complying with public sector values including acting with integrity by using powers responsibly, avoiding real or apparent conflicts of interest, and earning and sustaining public trust at the highest level.

Operation Meroo identified a number of issues with the Department's oversight of Agency A.

- **Oversight of Board performance.** The Department relies on health service boards to guide Victoria's health services on behalf of the Minister for Health, and is responsible for ensuring health service boards are appropriately skilled and oversighted.⁴⁷ As highlighted above, the Board did not hold the former CEO to account, partly due to issues with Board members' capability.

As stated in section 3.4.2, boards are required to assess their own performance. In 2017, VAGO found that although public entity boards usually conducted an annual assessment of their performance, they did not consistently provide these reports to their portfolio department, and therefore departments were 'missing a valuable opportunity to assess the operation of the entity and identify any emerging risks'.⁴⁸ In the case of Agency A, it appeared the Board's self-assessments were sporadic at best, and there was no indication of scrutiny by the Department.

Regular reviews of the operation of Agency A's Board by the Department may have identified there were significant issues with Board members' capability, and resulted in action to address those issues.

In response to VAGO's 2017 audit, the Department committed to improving its oversight of boards, including by requiring boards to attest to the completion of regular performance assessments and developing guidance around how often board presidents, departments and ministers should meet and which risks and activities would trigger a meeting. It is hoped these changes have strengthened the Department's oversight of public health services.

⁴⁵ Department of Health and Human Services, *Funding, performance and accountability*, Health Victoria website, accessed 20 August 2020, <www2.health.vic.gov.au/hospitals-and-health-services/funding-performance-accountability>.

⁴⁶ Department of Health and Human Services, 2019, *Service agreement requirements (DHHS)*, December 2019, accessed 20 August 2020, <fac.dhhs.vic.gov.au/service-agreement-requirements-dhhs>.

⁴⁷ Department of Health and Human Services, *About health service boards in Victoria*, Health Victoria website, accessed 29 July 2020, <www2.health.vic.gov.au/hospitals-and-health-services/boards-and-governance/about-health-boards>.

⁴⁸ Victorian Auditor-General's Office, 2017, *Board performance*, May 2017, p 13, <www.audit.vic.gov.au/sites/default/files/20170511-Board-Performance.pdf>.

- **Board guidance and training.** IBAC has identified there are opportunities for government departments, including DH, to strengthen systems and processes to address corruption vulnerabilities associated with public sector boards.⁴⁹ Importantly, departments – supported by the VPSC, which provides guidance and support to public sector boards, including through the *Code of Conduct for Directors of Victorian Public Entities* – should ensure boards are appropriately trained to understand their role and governance obligations. This includes their responsibility to identify and report suspected corrupt conduct.

The Department has advised it runs regular training and provides online resources to build skills of board members including around governance, leadership and risk management. The Department also hosts an annual induction seminar for new and reappointed board members of public health services (which any other board member may attend) and provides induction program guidelines for new board members. However, it does not appear mandatory for new members to be inducted.⁵⁰

In December 2017, the Department released a directors' toolkit for public health service board members to help them better understand their roles and the operating environment in which they govern. Some Agency A Board members were positive about the training and resources now available to them, although as noted in section 3.4.2, during IBAC's investigation it was apparent that some Board members still lacked a good understanding of their roles.

It is clearly a challenge for the Department to oversight the large number of public sector boards within its portfolio. However, a robust process of reviewing board performance and ensuring board members are appropriately trained and supported will help raise governance standards.

- **Failure to identify and act on concerns.** Like other public health agencies, Agency A was required to report monthly to the Department on its finances. This included cash flow and operating statements which would have included travel and other expenditure.⁵¹ However, at the time, CEO and executive expenses were not reported separately. The Department advised it had some concerns about the former CEO's expenditure following issues raised by the Director. In 2016, Agency A was one of a sample of health services subject to a CEO expenditure review. That review found Agency A had a significantly higher CEO expenditure than other agencies but did not identify the matters investigated in Operation Meroo.⁵²

As part of its standard oversight, the Department undertook quarterly performance reviews of Agency A with its executive team, including the former CEO. Records indicate the performance of Agency A was generally considered satisfactory by the Department.

The Director told IBAC that they first raised general concerns about the former CEO's conduct, including their expenditure, with the then Department Secretary in 2015. According to the then Secretary, the issues raised lacked sufficient detail to warrant further investigation. However, the Department did include Agency A in the 2016 CEO expenditure review and in 2017, the Department undertook an organisational culture review of Agency A.

When allegations were formally reported to the Department in 2017, the Department notified IBAC (pursuant to section 57 of the IBAC Act) that there was a reasonable belief suspected corrupt conduct had occurred or was occurring.⁵³

⁴⁹ IBAC 2019, *Corruption risks associated with public sector boards*, September 2019, <www.ibac.vic.gov.au/docs/default-source/education-resources/corruption-risks-associated-with-public-sector-boards.pdf?sfvrsn=351fb59d_0>.

⁵⁰ Department of Health and Human Services, *Induction of board directors*, Health Victoria website, accessed 1 April 2021, <www2.health.vic.gov.au/hospitals-and-health-services/boards-and-governance/education-resources-for-boards/induction-directors>.

⁵¹ Department of Health and Human Services, *Public hospital and portfolio entity financial reporting requirements*, Health Victoria website, accessed 1 April 2021, <www2.health.vic.gov.au/hospitals-and-health-services/financial-accounting-policy/portfolio-entity-financial-reporting>.

⁵² As a result of the review, the Department updated its guidance to health services on appropriate CEO and executive expenditure. Health services are now also required to report CEO and executive expenditure separately to the Department. In 2017, DHHS published the *Guidelines for CEO and Executive Business Expenses*. These guidelines address issues identified in IBAC's Operation Liverpool, Department of Health and Human Services, *Guidelines for CEO and Executive Business Expenses*, Health Victoria website, accessed 7 April 2021, <www2.health.vic.gov.au/hospitals-and-health-services/funding-performance-accountability/pricing-funding-framework/guidelines-for-ceo-and-executive-business>.

⁵³ Mandatory notification provisions in the IBAC Act came into effect on 1 December 2016. Heads of departments and Council CEOs (among other 'relevant principal officers') must notify IBAC of any matter where they suspect on reasonable grounds that corrupt conduct has occurred or is occurring.

3 Adequacy of the systems and controls at Agency A

There were other signs the former CEO's conduct was of concern. In 2003, a former Agency A employee raised concerns about the CEO's conduct with numerous agencies and individuals. The former employee wrote to each member of the Board, requesting their claims be fully investigated. IBAC was unable to find evidence that action was taken to investigate the complaint.

It may have been prudent for the Department to have centrally recorded on its agency performance systems issues or concerns raised, such as the Regional Director's concerns about the former CEO's potential conflict of interest with Organisation Z. This could have assisted the Department to identify a pattern of conduct and may have prompted earlier action.

The Department also failed to identify or act on the risks associated with the former CEO occupying their position for many years. In the case of Agency A, this risk manifested in the former CEO being a dominant personality whose conduct effectively went unchallenged. In 2016, towards the end of the former CEO's tenure, the Department Secretary identified extended periods of tenure as a risk, and required entities to subject their CEOs to market testing where the CEO had reached or was approaching 10 years' service. It is now departmental policy for CEO positions to be market-tested after 10 years.

- **Insufficient oversight of funding.** Departmental funding of nearly \$65,000 was not used by Agency A for its intended purpose – namely, the installation of a Nurse Call system at one of Agency A's hospitals. The grant application stated that the failure of the existing system could lead to 'potentially catastrophic outcomes, including unnecessary death'. However, a new Nurse Call system was not installed. In June 2011, the former CEO and then Director Capital Development submitted documentation to the Department attesting the work had been completed and requesting payment. The claim was accompanied by an invoice from a company that specialises in installing such systems, noting an order had been placed.

However, the company advised IBAC that Agency A subsequently withdrew the order for reasons unknown.

The former CEO said they could not recall signing the request for payment which certified work had been completed. They stated such documents were prepared by other Agency A employees and they signed them believing they were accurate. They said it was likely the funding would have been paid into general capital revenue.

It is a significant undertaking to ensure agencies properly acquit grants but this instance highlights how poor controls can be circumvented and public monies not expended in agreed ways.

The Department has taken positive steps to strengthen the integrity of public health services, in part in response to IBAC's Operational Liverpool.⁵⁴ Action taken includes:

- developing a *Model Fraud and Corruption Control Framework* for the purpose of guiding organisations on primary matters to consider when managing fraud and corruption risks
- developing CEO and executive expenditure guidelines
- writing to health service boards seeking attestation that a conflict of interest policy was implemented, declaration of private interest forms had been completed by executive staff and board members, and conflicts of interest is a standard agenda item at each board meeting
- requiring each public health service to review their integrity-related policies.⁵⁵

⁵⁴ IBAC 2017, *Operation Liverpool, An investigation into the conduct of two officers of Bendigo Health, Adam Hardinge and John Mulder*, March 2017, <www.ibac.vic.gov.au/docs/default-source/special-reports/liverpool-special-report.pdf?sfvrsn=3>.

⁵⁵ Department of Health and Human Services 2017, *Response to Operation Liverpool recommendation to the Department of Health and Human Services*, 19 September 2017, <www.ibac.vic.gov.au/docs/default-source/Responses/dhhs-response-to-operation-liverpool.pdf>.

Further, in response to the 2016 Targeting Zero report, the BMAC was created to ensure health services boards are appropriately skilled.⁵⁶ The BMAC:

- provides advice to the Minister for Health on how to ensure all public health service and public hospital boards are highly skilled, independent and effective
- collaborates with boards to identify any skill gaps, and advise on how gaps can be addressed
- actively oversees key points of the director appointment process.

In addition, in June 2019 the Department launched an integrity governance framework and better practice assessment reporting tool to assist Victorian public health services assess their integrity risks. These tools are designed to provide guidance on the development of appropriate policies and processes to strengthen integrity culture and reduce the likelihood of fraud and corruption in health services.⁵⁷

The *Victorian Health Services Performance Monitoring Framework* has also been strengthened to provide a greater focus on governance, leadership and culture and effective financial management.⁵⁸

In Victoria, the governance of public health services is devolved to boards, with oversight from the Department. This oversight needs to be robust to ensure health services, including those in regional and rural areas, are delivering the required services and expending their funds appropriately.

⁵⁶ Department of Health and Human Services, *Boards Ministerial Advisory Committee*, Health Victoria website, accessed 1 April 2021, <www2.health.vic.gov.au/hospitals-and-health-services/boards-and-governance/boards-ministerial-advisory-committee>.

⁵⁷ Department of Health and Human Services, *Integrity governance framework and assessment tool*, Health Victoria website, accessed 29 July 2020, <www2.health.vic.gov.au/hospitals-and-health-services/funding-performance-accountability/integrity-governance-framework>.

⁵⁸ Department of Health and Human Services, *Performance monitoring framework*, Health Victoria website, accessed 20 August 2020, <www2.health.vic.gov.au/hospitals-and-health-services/funding-performance-accountability/performance-monitoring>.

4 Conclusions and recommendations

4 Conclusions and recommendations

4.1 Conclusion

Operation Meroo found the former CEO:

- awarded a poorly defined contract to Company 1 valued at nearly \$1 million between 2010 and 2017 without following a competitive process
- failed to declare and manage conflicts of interest including their relationships with Person G and Person E
- provided benefits to Person G which were inconsistent with Agency A's policies
- authorised payments to their relative's company (Company 2) for work purportedly undertaken years earlier without verifying whether Agency A was actually liable to pay the amount invoiced
- failed to comply with policy regarding recruitment and promotions
- inappropriately expended Agency A funds on travel, meals and alcohol
- was involved in funding applications for building works to the Department and the Commonwealth Department of Health which contained false information, however, there was no evidence that the former CEO received a direct personal benefit from these grants
- failed to follow procurement processes when sourcing fleet vehicles.

As the CEO of a public health service, the former CEO of Agency A was a senior public sector employee who had a clear duty to uphold the *Code of Conduct for Victorian Public Sector Employees*, including by acting with integrity. They also had an obligation to use Agency A's limited resources in the best interests of the community. The former CEO did not fulfil these obligations.

The former CEO exploited vulnerabilities in Agency A's systems, controls and procedures, such as the absence of a strong conflicts of interest framework, and poor record-keeping practices. The former CEO also exploited their position as CEO, to the extent that the Director described them as running the agency as their 'fiefdom'. The former CEO created an environment which discouraged staff from speaking up about possible misconduct and corruption.

The longstanding former CEO wielded significant power and influence. Agency A's Board and the Department did not hold the former CEO to account. IBAC identified the Board members did not have the skills and capabilities to fulfil their responsibilities. And despite red flags, the Department did not adequately act on concerns regarding the former CEO.

IBAC acknowledges that Agency A has acted to address the issues identified in Operation Meroo and the Department's 2017 organisational culture review. Significant steps have been taken to improve controls in a number of areas, including procurement, recruitment and conflicts of interest, and to build a healthy organisational culture. These are positive steps, and reflected in strong indicators of employee engagement and satisfaction. However, IBAC considers there are opportunities for Agency A to further review and strengthen its policies, systems and practices to address the vulnerabilities identified in this report, and has made a recommendation to Agency A to this effect.

IBAC has also made recommendations to the Department to continue to improve the capability of board members of public health services, and its own oversight of health services.

Operation Meroo highlighted the risks associated with a senior officer not being held to account. It is incumbent on all Victorian government departments with responsibility for overseeing public sector agencies, particularly those agencies in regional areas and those governed by boards, to consider the issues raised in this report and to ensure strong controls are in place to prevent similar conduct occurring.

It is also important that other Victorian health services are alert to the corruption risks identified in this report, and consider how those risks can be mitigated.

IBAC has written to the VPSC to consider whether its tools and resources for members of public sector boards should be reviewed and strengthened in light of the issues identified in this report. IBAC is aware that in November 2020, the VPSC issued new guidelines following a recommendation from the Victorian Ombudsman, to support new public entity board members to understand their key integrity obligations and reduce integrity risks for board members.⁵⁹

Agency A is a small, regional agency which provides vital health services and care to the communities it serves. The total financial cost to Agency A of the former CEO's actions is unknown. But it is clear that significant amounts of money were misspent, at the expense of frontline health services. This clearly demonstrates the harm that corruption has on the community.

⁵⁹ Victorian Public Service Commission, *New resources to induct board directors*, VPSC website, accessed 17 November 2020, <vpsc.vic.gov.au/new-resources-to-induct-board-directors/>.

4 Conclusions and recommendations

4.2 Recommendations

Pursuant to section 159(1) of the IBAC Act, IBAC makes the recommendations outlined below:

Recommendation 1

That Agency A reviews its policies, systems and practices to address the corruption vulnerabilities identified in Operation Meroo, including by:

- a. strengthening controls applying to procurement, including by ensuring suppliers are sourced in a way that is compliant with competition requirements, that key elements of the procurement process are segregated and subject to appropriate oversight, and robust record-keeping practices are in place so that activities and decisions are auditable
- b. ensuring a strong conflict of interest framework is in place (including requiring declarations where consensual personal relationships exist between employees) and that employees and suppliers understand their obligations to identify, declare and manage conflicts of interest (and that conflicts of interest are avoided where possible)
- c. regularly communicating with employees and board members regarding their responsibility to report suspected corrupt conduct; how to make a report; and what support is available under the *Public Interest Disclosure Act 2012* when they do report.

Recommendation 2

The Department of Health to work with the Boards Ministerial Advisory Committee (BMAC) to:

- a. ensure BMAC considers public health service and public hospital board evaluations prior to the annual board member appointment process, and takes action to address issues and risks identified in those evaluations

- b. introduce a more formal process for conducting board director exit interviews and addressing issues as appropriate
- c. address the vulnerabilities of public health service and public hospital boards in regional and rural areas, including around recruiting suitable board members and maintaining required levels of capability
- d. review support provided to public health service and public hospital board members, including training and resources, to ensure board members:
 - undergo mandatory induction upon appointment
 - understand their governance obligations including under the *Health Services Act 1988*, the *Public Administration Act 2004* and the *Financial Management Act 1994*
 - understand how to identify and report suspected misconduct or corruption and the support available to board members under the *Public Interest Disclosures Act 2012* when they do report
 - understand their obligations under the *Code of Conduct for Directors of Victorian Public Entities*.

Recommendation 3

The Department of Health to:

- a. ensure its systems for monitoring the performance of public health services and public hospitals centrally record concerns or issues raised, to collate information on each health service and hospital's risks in a systematic way
- b. review and strengthen controls around the appointment and performance management of public health service and public hospital CEOs.

5 Appendices

Appendix A: Natural justice requirements and responses

To the extent that public bodies and persons in the report are the subject of adverse findings, comment or opinion, they have been given a reasonable opportunity to respond to those comments or opinions by being shown a draft version of the material parts of the report relating to them.

In accordance with sections 162(2) and (3) respectively of the IBAC Act, responses that did not result in material relevant changes between the draft report and this report – to the extent they are of the kind provided for in the IBAC Act – are set out on the following pages.

The former CEO

The former CEO is not in a position to respond to the report; therefore, they are not in a position to, and are unable to, refute or defend any allegations, comments or findings in the report that could be considered to be adverse to them.

The former Board President

Board capability (section 3.4.2)

The former Board President told IBAC that its conclusions needed to be properly viewed in context, and that at the time the Board only conducted sporadic training and Board director performance reviews. The former Board President told IBAC that now the Board does so regularly. Board and individual Board director reviews are now conducted on an annual basis. Training is also provided annually to assist the Board with its governance performance and to build upon its skill capabilities.

Agency A's Board also participates in online training provided by the Victorian Hospitals Association and safety and risk management training provided by the Victorian Managed Insurance Authority and Safer Care Victoria. The former Board President also noted the provision of the Directors' toolkit and National Disability Insurance Scheme training.

The former Board President was an advocate for more localised board training and gave evidence that new board members undergo training.

The former Board President disagreed they lacked familiarity or understanding of Agency A's obligations under the *Financial Management Act 1994*, and that the suggestion otherwise is misleading.

Person E

Person E told IBAC they had been denied natural justice as, according to Person E, they were not contacted during the investigation and raised concerns that the report had an adverse impact on their professional reputation and community standing.

Bonuses and paid study leave (section 2.3)

Person E disputed any inference that they received benefits in the form of bonuses or paid study leave which were provided other than solely based on merit, and consistent with the terms of their employment and relevant enterprise agreement. Person E told IBAC that there was no evidence to support any finding or inference that any bonus was received by reason of a personal relationship, rather than based on their performance.

Person G

Person G told IBAC that it was their understanding that the report would only cover the period of 2010 to 2017, and that parts of the report are written about a much earlier time, going back to the mid-1990s, when work systems were vastly different, as were the expectations of the Department and industry. Person G said there is no consideration in the report to how record keeping changed enormously, not only for Agency A but the business world as a whole, noting the move from paper to electronic record keeping in addition to the changing platforms and programs used, over a 20-year period. Person G holds the view that the report is not based on fact but based on supposition and people's opinions.

With respect to Company 1, Person G emphasised the report does not acknowledge the nature of regional towns, and that it is not unusual for people who know each other to work with and employ one another. They noted there were other companies used by Agency A that were contracted in the same manner, with at least one of these companies still contracted. Person G also stated that policies and procedures change over the years. Person G said the payments made by Agency A to Company 1 included the cost of employees who were often sub-contracted to act as replacements for Agency A staff and to perform tasks Agency A staff could not do.

Person G also disputed the comments made in the report regarding the relationship between Agency A and Company 1, commenting that Company 1 was never awarded a \$1 million contract. In respect of IBAC's comment that the former CEO awarded a contract to Company 1 without undertaking a competitive process, Person G told IBAC other companies were also contracted without advertising, and that this is still the case.

Person G also disputed IBAC's conclusion that the cessation of the contract between Agency A and Company 1 in 2017 resulted in significant savings to Agency A, and that therefore the contract with Company 1 demonstrated poor value. The report stated all tasks previously performed by Company 1 have either been discontinued or are being performed by Agency A employees. Person G believed this statement to be blurred by untruths. They said the report did not mention the extra administrative employees appointed to carry out some of the tasks of Company 1 and that these appointments are accompanied by overheads such as superannuation, leave entitlements, and extensions of these positions which negates the cost saving. Person G stated it is believed some of these positions were not advertised. They also said fundraising had been discontinued, and that this was 'cost cutting, not cost saving'.

Person G disagrees they used the former CEO's purchasing card, stating they never had possession of a credit card.

Person G's spouse

Person G's spouse disagreed with several comments and conclusions drawn by IBAC in the report, including:

- the role of Company 1 and the circumstances surrounding the contract with Agency A
- that the contract with Company 1 was not subject to any competitive procurement process and the value of at least some services they provided was questionable
- that the former CEO had personal associations with Company 1.

In response to the report stating that Person G's spouse was a long-standing friend of the former CEO, Person G's spouse said that due to the size of the town in which Agency A was located, it would be hard to find someone who had not known the former CEO for a long time.

Person G's spouse also stated that no objections nor concerns were raised by Agency A about expenses incurred by Company 1, and that there was ample opportunity to do so.

Appendix A: Natural justice requirements and responses

The Department's response

The former CEO's appointment as president of Organisation Z (section 1.2)

The report states that a departmental Regional Director raised concerns with the former CEO and former Board President about a potential conflict of interest arising from the former CEO's appointment as president of Organisation Z, and that the Department had decided not to pursue this matter after being advised by the former Board President that Agency A had received its own legal advice and was satisfied they were managing the conflict.

The Department told IBAC they reviewed correspondence regarding this matter from 2015 up until April 2016. The Department raised concerns about this matter with both the CEO and the Board President of Agency A on several occasions and provided rationale for these concerns. The Department also provided multiple resources to the health service Board President and CEO, including extracts from the *Code of Conduct for Victorian Public Sector Employees* around the purpose of the code, conflict of interest and other employment sections. Website links to the VPSC's draft Conflict of Interest Model Policy were also provided.

The Board President formally responded and outlined:

- Agency A had a longstanding code of conduct that included conflict of interest matters
- Agency A had received their own legal advice (noting that Agency A never provided the legal advice to the Department) and were satisfied they were managing the conflict of interest in line with their code.

The Department told IBAC it only became aware of the conflict of interest when Agency A's CEO became president of Organisation Z, at which stage the organisation was already accredited. The CEO also informed the Department that they (the CEO) were not involved in individual health service accreditation decisions as part of their role at Organisation Z.

The Department told IBAC it understood that the matter was not pursued further at the time, as it was deemed the Board had been alerted to the potential conflict, provided with all the relevant material and resources, had sought their own legal advice and that the role of president of Organisation Z did not involve individual health service accreditations and was therefore unlikely to impact outcomes.

The Department also provided information on how it currently oversees public health services, including through recruitment of board members, ensuring board member capability, appointments and reappointment of CEOs and monitoring the performance of public health services. This information is outlined at Appendix B.

Appendix B: Departmental oversight of public health services and public hospitals

The Department provided the following information on its oversight of public health services and public hospitals:

Performance assessments of health service boards

The Department requires health service boards to complete annual performance self-assessments and recommends an external assessment be undertaken every three years.⁶⁰

The Department does not require these to be routinely submitted directly to the Department as it may limit some board members' openness as part of their assessment and continual improvement processes. There are a number of ways, though, in which the Department assesses board capability, identifies issues and risks requiring action.

The Targeting zero: Supporting the Victorian hospital system to eliminate avoidable harm and strengthen quality of care (Targeting Zero) report by Dr Stephen Duckett, made recommendations on governance to eliminate avoidable harm and strengthen quality of care in hospitals. BMAC was created in response to those recommendations.

More details are available on the Health Victoria website.

However, the principal roles of BMAC are to:

- provide advice to the Minister for Health (and other Ministers as relevant) on how to ensure all public health service and public hospital boards are highly skilled, independent and effective*
- collaborate with boards to identify any skill gaps, and advise on how identified skill gaps are best addressed*
- provide active oversight at key points of the appointment process and other board appointments considered by BMAC or the Department to be high risk.*

BMAC ensures board skill adequacy by evaluating applicants against an objective and transparent skills assessment framework, by requiring clinical governance training and ongoing development for board directors, by recommending that the Minister supply short-term delegates to boards where the skill mix is inadequate, and by potentially recommending board amalgamation where long-term adequacy of skills cannot be achieved.

BMAC has conversations with board presidents around board assessments and skill gaps before the commencement of annual rounds of appointments.

Further to the role of BMAC, the Department often checks that board assessments have been occurring whether this is part of annual Statement of Priority signings with the board president, or through a board evaluation set agenda item at region-wide board president forum discussions so that learnings can be shared across health services. In instances where the Department may have concerns around governance, the Department has commissioned a variety of independent governance reviews at health services. The Minister has also appointed delegates to health service boards (noting that this occurred at Agency A in this report) where there are concerns with governance. The delegate has two main functions, the first to provide advice or information to the board to assist it in understanding its obligations and to advise the Secretary and the Minister of any matter relating to the public hospital or the board.

The Department also reviews resignation letters of board members for any concerns and in most situations conducts exit interviews on those board members.

⁶⁰ Department of Health and Human Services, *Board assessment*, Health Victoria website, accessed 1 April 2021, <www2.health.vic.gov.au/hospitals-and-health-services/boards-and-governance/education-resources-for-boards/board-assessment>.

Appendix B: Departmental oversight of public health services and public hospitals

Recruiting suitable board members and maintaining required levels of capability

BMAC has been established and its role is described above. The skills matrix has also been modified to describe primary skills and secondary skills to have a better understanding of existing members' skill sets and any gaps that exist. Over the last few years, there has been significant additional training provided for board members.

Historically, the training was mostly provided in Melbourne, whereas the training is now provided both regionally and online, to increase participation. COVID-19 has further enhanced the online opportunities for board members and 2020 was the first year that a series of induction modules were provided as a webinar with a recording and transcript available online. Approximately 300–400 board directors and Executive personnel registered for each of the three modules. The Department makes available all relevant resources to board members via the Department's public-facing website.

As the Operation Meroo draft report outlines, rural public hospital board members are now remunerated. This adds to the level of professionalism that is expected. Further changes around limiting tenure have also been implemented. The Department works with health services around board recruitment, including assisting with advertising and promoting it widely to various professional bodies and finding additional board members. Over the last few years, there has been a significant focus on increasing diversity, including gender diversity. There has also been an increase in board members appointed from 'out of town/local community' to ensure the right skills mix on the boards. This is most evident in ensuring appropriate clinical governance experience and having a clinician on each board. The Department has also commissioned the Victorian Healthcare Association to develop a mentor program for board presidents and directors (and CEOs).⁶¹

Monitoring the performance of public health services

The Department's Performance Monitoring Framework (the Framework) has evolved over time to draw on a broader range of factors that impact the performance of health services, and outcomes they provide for patients and the community.⁶²

The findings of Targeting Zero provided a further catalyst to focus on the proficiency of 'performance domains'.

The Framework outlines how the Department, as the system steward of Victoria's public health system, takes a risk-based approach to overseeing health service performance. The Framework is designed to assess the level of performance risk posed to each health service in relation to its delivery of safe, high-quality, accessible and sustainable health care for Victorian patients and communities. Further, the Framework uses targets and other intelligence to identify areas of risk and poor performance, but also considers whether a health service is improving over time in relation to those targets.

It therefore considers:

- a health service's current performance and trends against targets of the Key Performance Measures within each performance domain*
- the Underlying Risk Factors, third-party reports and other intelligence that may indicate emerging or underlying risks to future performance (i.e. contextual factors).*

The Framework allows the Department to assess the level of performance risk and identify the type and focus of support required.

⁶¹ Victorian Healthcare Association, *Mentoring program for hospital board chairs, directors and CEOs*, VHA website, accessed 1 April 2021, <vha.org.au/education-resources/mentoring-program/>.

⁶² Department of Health and Human Services, *Performance monitoring framework*, Health Victoria website, accessed 1 April 2021, <www2.health.vic.gov.au/hospitals-and-health-services/funding-performance-accountability/performance-monitoring>.

The Framework continues to sharpen this approach and strengthens the emphasis on contextual factors that underpin performance, acknowledging the complexity of health service delivery. These contextual factors provide early indications of issues that can impact patient outcomes. Examples include:

- *the strength of financial, corporate, and clinical governance and leadership*
- *leading indicators that may reveal underlying potential risks to the quality and safety of care*
- *qualitative measures from a variety of sources that can reveal performance issues before they become performance failures.*

The Framework is structured around four performance domains that provide a crosslinking and mutually supportive view of health service performance. The domains are:

- *high-quality and safe care*
- *strong governance, leadership and culture*
- *effective financial management*
- *timely access to care.*

Each performance domain is informed by several strategic goals, which in turn are supported by relevant qualitative and quantitative measures.

Relevant to Operation Meroo, the strong governance, leadership and culture domain assesses the strength of the organisation's governance, leadership and culture, which are key attributes of high-performing and safe health services. Optimising both corporate and clinical governance is essential in creating a high-performing health service.

Organisational culture can significantly influence patient safety through its impact on effective communication, collaboration and engagement across the organisation. This domain includes assessment of the strength of clinical and corporate governance in health services, and their ability to nurture safe cultures and positive clinical engagement.

A Risk Assessment Tool allows the collation of all the information/risks and documents some mitigation strategies. The Department acknowledges this is a very manual process rather than an automated collation of all relevant information. This report does provide an opportunity for the Department to review how information is collated over time in a more centrally and automated process.

Appointments or re-appointments of CEOs

From 14 November 2016, the Secretary has required Entities to subject their CEO roles to testing in the market where an incumbent CEO has reached – or is approaching – 10 years' service in the same role and is looking to remain in that role beyond 10 years' service.

In addition to the Directors' toolkit that is referenced in this report, the Department has a Health Executive Employment and Remuneration (HEER) Policy and Handbook that is distributed to health services (last distributed July 2020). This includes information around:

- *The Secretary or a Delegate must be involved from the outset in the process of recruiting a CEO (or market testing for reappointment if CEO has or is approaching 10 years). This means the Secretary, or a delegate will have interest and an involvement in:*
 - a. shortlisting of applicants*
 - b. interviewing candidate*
 - c. conducting referee checks*
 - d. performance of CEO – reiterating requirement for boards to have a specific obligation to manage and formally assess the performance of their CEO each financial year.*

The Department coordinates board president forums across rural regions and CEO performance has been an agenda item that has been discussed at each one of these in the last 12 months. This allows discussion and sharing of what has been included in the assessment, what challenges they have faced and opportunities for improvement.

In October 2019, the Department released the CEO leadership capability framework. This was in response to an identified need to create a strategy for talent management and CEO succession planning and capability in Victoria's health system.

This framework identifies the personal qualities and capabilities required of CEOs operating in the Victorian health system. This CEO leadership capability framework will support the Department and health service board presidents to clearly articulate the expected skills and behaviours of CEOs, and to support leadership development, recruitment and retention across Victoria's health system.

The framework comprises three key elements:

- personal qualities
- leadership capabilities and behaviours
- health system leader requirements and role-specific requirements.

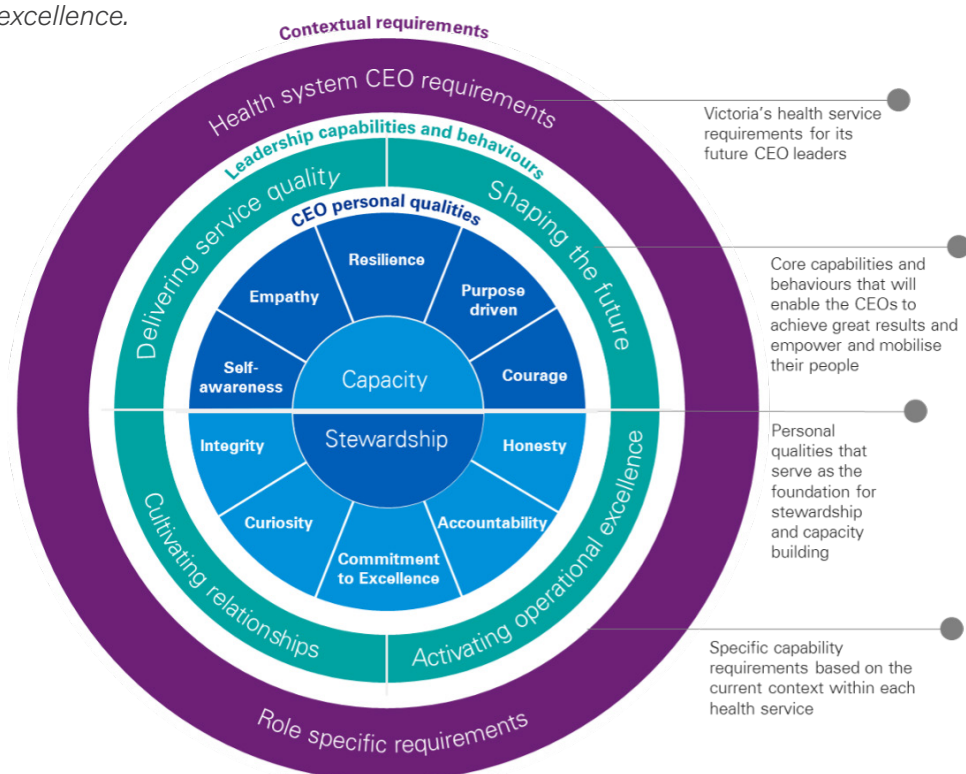
The behaviours and capabilities articulated in the framework are:

- shaping the future
- cultivating relationships
- delivering service quality
- activating operational excellence.

The framework was drafted by reviewing and synthesising material based on:

- global best practice capability approaches
- existing Victorian capability frameworks in health
- feedback from the pilot CEO leadership capability assessment and development centre day
- the context of the Victorian health system and its vision
- sector feedback
- specialist expertise in talent management and capability frameworks.

The framework supports the identification, development and management of CEO talent across the Victorian health system. The framework will assist in the identification and development of talented candidates, as well as broader succession planning and management in the system.



Appendix C: Previous IBAC special reports

Publication date	Report title
November 2013	Special report concerning certain operations in 2013
February 2014	Special report concerning allegations about the conduct of Sir Ken Jones QPM in relation to his dealings with certain confidential Victoria Police information
April 2014	Special report following IBAC's first year of being fully operational
October 2014	Operation Fitzroy: An investigation into the conduct of former employees of the Department of Transport/Public Transport Victoria, Barry John Wells and Hoe Ghee (Albert) Ooi, and others
August 2015	Special report concerning police oversight
April 2016	Operation Ord: An investigation into the conduct of officers at the Department of Education and Early Childhood Development
May 2016	Operation Darby: An investigation of Mr Nassir Bare's complaint against Victoria Police
October 2016	Operation Exmouth: An investigation into the conduct of former Victorian public servant, Carmine Petrone
November 2016	Operation Ross: An investigation into police conduct in the Ballarat Police Service Area
December 2016	Special report concerning illicit drug use by Victoria Police officers: Operations Apsley, Hotham and Yarrowitch
January 2017	Operation Dunham: An investigation into the conduct of officers of the Department of Education and Training, including Darrell Fraser, in connection with the Utranet project and related matters
March 2017	Operation Liverpool: An investigation into the conduct of two officers of Bendigo Health, Adam Hardinge and John Mulder
April 2017	Operation Nepean: An investigation into the conduct of former employee of Dame Phyllis Frost Centre, Jeff Finlow
September 2017	Operation Tone: Special report concerning drug use and associated corrupt conduct involving Ambulance Victoria paramedics
December 2017	Operation Lansdowne: Special report concerning allegations of serious corrupt conduct at South West Institute of TAFE, Bendigo Kangan Institute and V/Line
December 2017	Special report on IBAC's first five years

Appendix C: Previous IBAC special reports

Publication date	Report title
September 2019	Special report on corruption risks associated with procurement in local government: Operations Dorset, Royston and others
May 2020	Operation Betka: An investigation into alleged corrupt conduct by a former contractor of the Department of Education and Training
July 2020	Operation Gloucester: An investigation into improper evidentiary and disclosure practices in relation to the Victoria Police investigation of the murders of Sergeant Gary Silk and Senior Constable Rodney Miller

